4-19-88
Vol. 53 No. 75
Pages 12759-12908

Federal Register

Tuesday
April 19, 1988

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 426

[Amdt. No. 2; Doc. No. 5398S]

Combined Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Combined Crop Insurance Regulations (7 CFR Part 426), effective for the 1988 crop year. The intended effect of this rule is to maintain the effectiveness of the present Combined Crop Insurance Regulations only through the 1987 crop year. FCIC intends to issue a publication in the **Federal Register** at a later date to terminate the Combined Crop Insurance Regulations effective with the end of the 1987 crop year.

EFFECTIVE DATE: April 19, 1988.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1988.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

The combined crop insurance program, begun in the 1948 crop year, was, at one time, offered in a majority of counties throughout the country as a means of insuring a variety of crops at a reduced premium rate. The concept of a combined crop insurance program was designed to reflect the crop insurance needs of farmers which leaned strongly toward less risk management through crop diversification and covered Barley, Flax, Oats, Rye, Soybeans, and Wheat.

Over the years, participation in the combined crop insurance program dwindled to only five counties in North Dakota. Several of these counties had extremely low participation with the majority of producers preferring crop insurance coverage on an individual basis.

On Thursday, November 29, 1979, FCIC published a final rule in the **Federal Register** at 44 FR 68431, which determined that, while the combined crop insurance program would be maintained for those producers who wished to continue to insure their crops under a continuous combined crop insurance policy, no new applications would be accepted.

The determination to discontinue accepting new applications for combined crop insurance, while affecting only new policyholders, afforded them a greater flexibility in insurance coverage by allowing them to select varying levels of coverage on individual crops to reduce premium costs. The same benefit accrued to existing combined crop insurance policyholders who determined that individual crop coverage would be more beneficial. These policyholders were permitted to transfer any good insuring experience discount to an individual crop program.

On October 9, 1986, the Board of Directors requested that the Corporation determine the feasibility of terminating combined crop insurance with the end of the 1987 crop year.

Approximately 602 policyholders currently remaining under the combined crop insurance program will be offered individual crop insurance coverage under any of the above endorsements for the 1988 crop year.

Any of these policyholders with a continuing benefit from good insuring experience discount will be permitted to continue receiving this benefit through the 1989 crop year.

Beginning with the 1988 crop year, the crops formerly insured under the combined crop insurance program are now incorporated as separate endorsements under the General Crop Insurance Policy (7 CFR Part 401, published on July 30, 1987, at 52 FR 28443), as follows:

Barley 7 CFR 401.103

Flax 7 CFR 401.116

Oats 7 CFR 401.105

Rye 7 CFR 401.106

Soybeans 7 CFR 401.117

Wheat 7 CFR 401.101

On Friday, October 20, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 41728, to maintain the effectiveness of the present Combined Crop Insurance Regulations only through the 1987 crop year.

The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, FCIC adopts

as final the proposed rule published at 52 FR 41728.

List of Subjects in 7 CFR Part 426

Crop insurance, Combined crops.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation hereby amends the Subpart heading to the Combined Crop Insurance Regulations (7 CFR Part 426), as follows:

PART 426—[AMENDED]

1. The authority citation for 7 CFR Part 426 continues to read as follows:

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

2. The subpart heading in 7 CFR Part 426 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 Crop Years

Done in Washington, DC, on April 11, 1988.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-8455 Filed 4-18-88; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 610, 640, and 660

[Docket No. 83N-0169]

Additional Standards for Diagnostic Substances for Laboratory Tests; Amendment of Requirements for Blood Grouping Reagent

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its additional standards for Blood Grouping Reagent (formerly named Blood Grouping Serum) as part of the agency's retrospective review of current regulations. FDA is making the standards more flexible and is revising the regulations to reflect recent scientific knowledge and experience in the use of Blood Grouping Reagent. The agency is also making available recommended testing procedures for these products.

DATES: Effective May 19, 1988; amendments to the labeling requirements in 21 CFR 660.28 are effective April 19, 1989, for all affected products initially introduced or initially delivered for introduction into interstate commerce.

ADDRESS: Requests for single copies of the recommended testing procedures may be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857 (Send two self-addressed adhesive labels to assist the Branch in processing your requests).

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, Center for Biologics Evaluation and Research (HFN-322), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

SUPPLEMENTARY INFORMATION:

Background

In the **Federal Register** of March 5, 1985 (50 FR 8743), FDA proposed to amend the additional standards for Blood Grouping Serum (21 CFR Part 660) to reflect recent experience and scientific knowledge in the use of these products, and to continue an ongoing retrospective review program of all FDA regulations. The retrospective review of Blood Grouping Serum regulations is an attempt by the agency to relieve unnecessary regulatory burdens and to increase flexibility in the regulations without compromising consumer protection. As defined in the proposal, Blood Grouping Serum consists of a sterile preparation of serum or protein-rich fluid containing one or more blood grouping antibodies that is used to detect ABO, Rh, or other antigens of red blood cells. The preparation is an in vitro diagnostic product that is usually produced from high-titer human serum, with or without stimulation by the injection of red blood cells or blood group substances.

Under section 351 of the Public Health Service Act (42 U.S.C. 262), biological products, including Blood Grouping Serum, offered for sale in interstate commerce must be licensed and meet certain standards designed to ensure their continued safety, purity, and potency.

Also in the **Federal Register** of March 5, 1985 (50 FR 8745), the agency announced it was making available its recommended testing procedures for these products in a document entitled "Recommended Methods for Blood Grouping Sera Evaluation" (Docket No. 84S-0181). The document recommended testing procedures including procedures for potency tests, specificity tests, and avidity tests. Consistent with its proposal of March 5, 1985, FDA is announcing under 21 CFR 10.90(b)(10) that a revised document entitled "Recommended Methods for Blood Grouping Reagents Evaluation" (Docket No. 84S-0181) is available for public examination at the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies of the recommended methods document should refer to the docket number and should be submitted to the Dockets Management Branch.

In the proposed rule for Blood Grouping Serum, FDA proposed to add a new § 600.1 *Scope* to clarify which regulations in 21 CFR Parts 210, 211, 600 through 680, 809, and 820 are applicable to biological products. Parts 210 and 211 concern current good manufacturing practice for drugs and finished pharmaceuticals. Parts 600 through 680 address regulations for biological products, while Parts 809 and 820 address labeling and current good manufacturing practice for medical devices. Proposed § 600.1 attempted to clarify which of these regulations take precedence or supplement each other when these regulations are applied to biological products.

Although FDA has received no comments on proposed § 600.1, the agency, in reevaluating this proposed section, now believes that it was not appropriate to promulgate the scope section in this final rule. The rulemaking affects a limited number of biological in vitro manufacturers, whereas the proposed scope affects every manufacturer of biological products. In order to reach a wider audience of biological manufacturers, FDA is considering reproposing this section in a separate document. Accordingly, FDA is deleting the scope section from this final rule.

Comments

FDA provided interested persons 60 days to submit written comments on the proposal. In response, FDA received seven letters of comment. One letter of comment fully supported the proposed rule. A summary of other comments and FDA's responses follows:

Blood Grouping Reagent (§ 660.20)

1. One comment on § 660.20 concerned the proper name, Blood Grouping Serum. The comment suggested that the proper name be changed to Blood Grouping Reagent to more accurately describe the product's derivation and intended use. With advances in technology, a number of these products are now manufactured from monoclonal antibodies produced in vitro rather than from human and

animal source plasma and serum. The monoclonal Blood Grouping Serum products are therefore no longer "serum" by definition.

FDA agrees with the suggestion that the proper name for this product should be changed to Blood Grouping Reagent for the reason mentioned in the comment. Accordingly, FDA is amending §§ 660.20 through 660.28 to reflect the new proper name and is making conforming changes in §§ 610.12, and 610.53, and 640.5 of the biologics regulations for Blood Grouping Reagents. In addition, FDA is making conforming changes in the name of the product in the document entitled "Recommended Methods for Blood Grouping Reagent Evaluation" (Docket No. 84S–0181).

2. Five comments on proposed § 660.20(a) objected to the requirement that, to be exempted from performing final product sterility tests on each lot of product, a manufacturer must submit data that assure the sterility of the product to the Director, Office of Biologics Research and Review. The comments pointed out that this policy is inconsistent with a final rule published in the **Federal Register** concerning Anti-Human Globulin (50 FR 5574; February 11, 1985). The comments argued that Anti-Human Globulin and Blood Grouping Reagent are related products, prepared by similar procedures, and used in a similar fashion. Because Anti-Human Globulin is exempted from final product sterility testing, the comments stated that consistent wording should be used concerning final product sterility testing for these two products.

FDA agrees with the comments. FDA believes that Blood Grouping Reagents should be sterile and be prepared by procedures demonstrated to yield consistently a sterile final product. However, manufacturers' control of the sterile manufacturing process provides more assurance of product sterility than performance of final product sterility tests. Final product sterility tests reveal whether the units tested are sterile, but such tests cannot provide complete assurance that untested units in the lots are sterile. FDA advises that manufacturers are required to assure that the products are sterile and manufactured by a method demonstrated to yield consistently a sterile product through performance of sterile process validation, a requirement of FDA's current good manufacturing practice (CGMP) regulations for medical devices in 21 CFR Part 820. In the **Federal Register** of May 11, 1987 (52 FR 17638), FDA announced the availability of a final guideline entitled "Guideline on General Principles of Process Validation" (May 1987).

FDA requires that a preservative be added to Blood Grouping Reagents to prevent development of any microbial contamination during use and reuse of the container. To provide increased assurance that the product is safe and effective at time of use, FDA also requires that blood banks perform the daily checks for potency and specificity of Blood Grouping Reagents that are required by FDA's CGMP regulations for blood and blood components (21 CFR 606.65(c)). Thus, FDA believes it can eliminate the proposed requirement for performance of final product sterility tests of each lot without compromising the safety, potency, or effectiveness of Blood Grouping Reagents and without any reduction in consumer protection.

Current licensed manufacturers of Blood Grouping Reagent have already shown a history of consistently manufacturing a sterile product and therefore will not be required to perform final product sterility testing. FDA notes, however, that a new company requesting a license for manufacturing Blood Grouping Reagent and companies that change procedures significantly will have to submit supporting data that demonstrate a history of consistently manufacturing a sterile product to justify elimination of final product sterility testing.

Accordingly, in the final rule the agency is amending § 660.20(a) by removing the last sentence of that section that requires manufacturers to submit data to the Director, Office of Biologics Research and Review, to be exempted from final product sterility testing.

Processing (§ 660.21)

3. Three comments on proposed § 660.21(a)(1) objected to the requirement for manufacturers to perform ongoing stability testing of Blood Grouping Reagent. The proposal had stated that ongoing stability testing was already required by § 601.2. The comments claimed that ongoing stability testing is unnecessary and represents a new testing requirement. Two comments objected because of the absence of an economic impact statement and because no support was given for ongoing stability testing. One comment stated that stability testing of Blood Grouping Reagent is inconsistent with the final rule for Anti-Human Globulin mentioned in paragraph 2 of this preamble.

FDA disagrees in part with the comments. Although stability testing is not yet codified into the biologics regulations, the majority of manufacturers of Blood Grouping Reagents have consistently performed ongoing stability testing of their products for many years. Blood Grouping Reagents can be life-saving reagents when used in the hospital setting to assure that blood and blood components are safely transfused into patients. Stability testing is an essential quality assurance step for monitoring the intrinsic variability of these biological products throughout their shelf-life and such testing assures the continued effectiveness of these biological products. Codifying stability testing represents no additional burden on these manufacturers because they have performed ongoing stability testing for years.

FDA believes that a quality assurance program that includes stability testing is necessary to assure continued potency and efficacy of these products. The agency reviews initial stability studies of Blood Grouping Reagents to support approval of new products for which full shelf-life studies are not completed but are being conducted. For example, the agency may review an initial stability study of 6 month's duration to support approval of a product that has an expected shelf-life of 2 years, provided that ongoing stability studies continue.

FDA acknowledges that stability testing is not specifically codified in the Anti-Human Globulin final rule. Upon further consideration, the agency believes that ongoing stability testing is needed to assure a uniform approach for testing these products. The agency intends to amend the additional standards for Anti-Human Globulin in the future.

FDA believes that manufacturers should test a cross section of products that have different origins of source material, are made in different manners, or are used in different ways. FDA is aware that the commonly used ABO and Rh reagents prepared from polyclonal source material and tested for potency in parallel with FDA reference sera have consistently demonstrated remarkable stability over long storage periods. Therefore, a small number of stability tests may be adequate to monitor the product storage period for these reagents. Ongoing stability testing may have an added benefit to manufacturers. Stability testing data may support requests for exemption from lot release requirements and extension of dating periods for these products beyond those listed in § 610.53(a) of the biologics regulations.

Accordingly, the agency rejects the comments opposed to ongoing stability testing and is amending § 660.21(a)(1) to state that stability testing shall be

performed on an adequate number of representative samples of each group of products.

4. Two comments on proposed § 660.21(b) concerned color coding of Blood Grouping Reagent. One comment recommended that all manufacturers use the same color for any given product to prevent confusion. Another comment stated that any color coding system should be uniform and asked if the Blood Grouping Reagents should be color-coded in harmony with the color-coding system already permitted for final container labels listed in § 660.28(a).

FDA agrees that the color-coding system for Blood Grouping Reagent should be uniform, and agrees that in most instances the color coding should be in harmony with the colors permitted for final container labels in § 660.28(a). Manufacturers should use good judgment and limit the use of colors in reagents to prevent a multiplicity of colors for Blood Grouping Reagents of a single specificity. However, to add flexibility and allow for unusual situations in color coding, the agency is amending proposed § 660.21(b) by adding the words "and the colorant is approved by the Director, Center for Biologics Evaluation and Research, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892."

Potency Tests Without Reference Preparation (§ 660.25)

5. Three comments on proposed § 660.25 asked that the words "slide or microplate techniques" be added to § 660.25 (a) and (c) to allow for potency tests using slide and microplate techniques in addition to currently permitted test tube methods for potency determinations.

The agency agrees with the comments to permit both slide and microplate techniques in addition to test tube methods for measuring potency of Blood Grouping Reagents when FDA reference sera are not available. However, the agency believes that this wording change should be made to § 660.25(b) because potency tests using slide and microplate techniques are manual testing procedures. Accordingly, the agency is adding the words "slide tests or microplate techniques" to the paragraph heading in § 660.25(b) and a similar statement to the text to allow for these testing techniques.

6. One comment on § 660.25(b) stated that a 1:2 dilution may be excessive for some reagents recommended for slide tests (e.g., anti-e).

FDA disagrees with the comment. FDA believes that for reagent reactivity a 1:2 dilution is appropriate to protect the patient adequately. To clarify a possible misconception of the phrase "1:2 dilution," the agency is amending this paragraph by replacing the phrase "1:2 dilution of reagent" with the phrase "reagent diluted with an equal volume of diluent." The agency notes, however, that under § 610.9 *Equivalent methods*, a manufacturer has the option of using modified test methods or manufacturing processes after receiving written approval from FDA. The modification, in the form of a product license amendment, must show that the proposed alternative procedure will provide assurances of the safety, purity, potency, and effectiveness of the biological product equal to or greater than the assurances provided by the method or process in the general standards or additional standards for the biological product.

7. One comment on § 660.25(b) stated that red blood cells cannot be heterozygous for a blood group antigen, but merely exhibit homozygous or heterozygous expression of an antigen.

The agency agrees that the phrase "heterozygous for corresponding antigen" is technically incorrect and is amending § 660.25(b) to read "* * * showing heterozygous or diminished expression of the corresponding antigen."

8. One comment on proposed § 660.25(c) questioned the phrase "lower extremes of phenotypic expression" as the phrase applies to Blood Grouping Reagent recommended for use in an automated system. The comment suggested that, for certain Blood Grouping Reagent specificities, the proposed rule may appear to require an unequivocal positive result when the phenotype causes difficulty even in manual testing. The comment suggested changing the phrase to read "representing diminished expression of the antigen."

The agency agrees with the comment and is amending § 660.25(c) to read "* * * representing heterozygous or diminished expression of the corresponding antigen" for consistency with the language found in § 660.25(b).

Labeling (§ 660.28)

9. Two comments on proposed § 660.28(a)(1) requested that Blood Grouping Reagent labeling should allow a logo or company name, as already permitted for Anti-Human Globulin in § 660.55(a)(1).

The agency agrees that a manufacturer should be allowed to use a logo or company name provided the logo or name is located outside the main panel of the final container label. Accordingly, FDA is amending § 660.28(a)(1) to allow for such logos or company names along the bottom or end of the label outside of the main panel on final container labels for Blood Grouping Reagent.

10. Three comments on proposed § 660.28(b)(12) pointed out that the word "reconstruction" should be replaced with the word "reconstitution."

The agency agrees with the comment and has revised the final rule accordingly.

11. One comment on § 660.28(b)(14) suggested deleting the word "Potency" from the statement "MEETS FDA POTENCY REQUIREMENTS" on the package label. The comment stated that the suggested broader statement includes nonreactivity for hepatitis and other transmittable diseases which future regulations may address for products derived from human sources.

The agency disagrees with the comment. Statements that concern nonreactivity for hepatitis and other transmittable diseases are addressed in § 660.28(b)(15). (See paragraph 12 below). For consistency with a labeling provision in § 660.55(b)(11) for Anti-Human Globulin, which is a similar type product, the agency believes that this statement should not be changed. Accordingly, the agency rejects the comment.

12. Two comments on proposed § 660.28(b)(15) requested that it be amended by simplifying and clarifying the cautionary hepatitis warning statement.

The agency agrees that the hepatitis warning statement should be revised and is amending § 660.28(b)(15) to read: "CAUTION: ALL BLOOD PRODUCTS SHOULD BE TREATED AS POTENTIALLY INFECTIOUS. SOURCE MATERIAL FROM WHICH THIS PRODUCT WAS DERIVED WAS FOUND NEGATIVE WHEN TESTED IN ACCORDANCE WITH CURRENT FDA REQUIRED TESTS. NO KNOWN TEST METHODS CAN OFFER ASSURANCE THAT PRODUCTS DERIVED FROM HUMAN BLOOD WILL NOT TRANSMIT INFECTIOUS AGENTS." This revised cautionary labeling statement applies to hepatitis as well as other infectious agents for which the agency may require a warning statement in the future.

13. One comment on the proposed removal of § 660.29 stated that the removal of specific lot release requirements is a potentially important reform, but urged the agency not to exercise its authority under the general lot release requirements of §§ 610.1 and 610.2 in such a manner as to neutralize its benefits.

The agency advises that it intends to use its authority under §§ 610.1 and 610.2 to require official lot release whenever the agency believes that lot release is necessary to ensure the safety, purity, or potency of the products. Currently, licensed manufacturers of Blood Grouping Reagents are required by their license applications to comply with lot release requirements. These manufacturers may submit license amendments at any time to request exemptions from the requirements for submission of samples, protocols, and lot release. However, manufacturers of these products are still required to receive FDA's official release under § 610.2(a) for these products, unless otherwise notified by FDA.

Recommended Methods for Blood Grouping Reagents Evaluation

The agency received several comments concerning its document entitled "Recommended Methods for Blood Grouping Serum Evaluation" that was made available at the time the agency published the proposed rule. The agency advises that FDA is making available its revised recommended test procedures for the product as authorized in 21 CFR 10.90(b)(10) of its administrative practices and procedures regulations. The revised test procedures, modified in response to the comments below, are in a document entitled "Recommended Methods for Blood Grouping Reagents Evaluation" (Docket No. 84S–0181), and are available for public examination at FDA's Dockets Management Branch (address above).

14. Two comments noted a discrepancy between proposed § 660.25(b) and the recommended methods concerning avidity testing. The recommended methods state that dilutions of Blood Grouping Reagent should be made with human serum, whereas proposed § 660.25(b) permits dilution of Blood Grouping Reagent with either compatible serum or an approved diluent.

The agency agrees that the recommended methods were unclear. FDA is amending the recommended methods to provide for dilutions with either compatible serum or diluent approved by the Director, Center for Biologics Evaluation and Research.

15. One comment objected to a requirement in Section IV, Avidity Test, that a manufacturer should observe avidity test results at the first half of the recommended observation period as well as at the end of the observation period.

The agency disagrees with the comment. Observation of the avidity results at 1-minute and 2-minute time points has been a codified testing requirement in § 660.27 since 1977. The time frame for performing avidity tests is routinely 2 minutes. By observing the test reaction for agglutination at both 1-minute and 2-minute time points, the agency believes that an additional margin of safety is added in testing the product. Blood Grouping Reagents of adequate strength usually will agglutinate red blood cells in the first minute of avidity testing. Very weak reacting Blood Grouping Reagents may not agglutinate red blood cells in the first minute of avidity testing, and the reagents would likely be of questionable effectiveness. Thus, the agency rejects the comment.

Accordingly, FDA is amending the additional standards for Blood Grouping Reagents with the changes described above and other minor clarifying changes, such as adding to §§ 660.25(a)(3) and 660.28(d) two recently licensed Blood Grouping Reagent antibody specificities, Anti-Lu^a and Anti-Lu^b.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(10) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has examined the economic consequences of this rulemaking and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). The amendments to the additional standards are expected to be beneficial to manufacturers of Blood Grouping Reagents because the changes potentially relieve certain unnecessary burdens on the industry, such as removal of the specific lot release requirements. Other changes in the current biologics regulations are intended to allow manufacturers of these products greater flexibility and greater discretion in manufacturing and marketing their products while maintaining the same level of consumer protection. The codified requirement of ongoing stability testing also will not result in any significant increase in cost to manufacturers because nearly all manufacturers have performed ongoing stability testing for years. There are 10 licensed manufacturers of Blood Grouping Reagents. The agency estimates that annual sales of Blood Grouping Reagents exceed $25 million. The amendments to the additional standards offer important, but difficult to measure, cost savings to manufacturers of these products. The agency concludes that the rule is not a major rule as defined by Executive Order 12291. Further, the agency certifies that the rule will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

Paperwork Reduction Act

Sections 660.21, 660.22, 660.25, 660.26, and 660.28 of this final rule contain collection of information requirements that were submitted for review and approval to the Director of the Office of Management and Budget (OMB), as required by section 3507 of the Paperwork Reduction Act of 1980. The requirements were approved and assigned OMB control number 0910–0209.

List of Subjects

21 CFR Part 610

Biologics, Labeling, Reporting and record requirements.

21 CFR Part 640

Blood, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 660

Biologics, Labeling.

Therefore, under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, Parts 610, 640, and 660 are amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

1. The authority citation for 21 CFR Part 610 continues to read as follows:

Authority: Secs. 201, 501, 502, 505, 510, 701, 52 Stat. 1040–1042 as amended, 1049–1051 as amended by 76 Stat. 780, 1052–1053 as amended, 1055–1056 as amended, 76 Stat. 794 as amended, and sec. 301 of Pub. L. 87–781 (21 U.S.C. 321, 351, 352, 355, 360 and note, 371), the Public Health Service Act (secs. 351 and 361, 58 Stat. 702 and 703 as amended (42 U.S.C. 262 and 264)), and the Administrative Procedure Act (secs. 4, 10, 60 Stat. 238 and 243, as amended (5 U.S.C. 553, 702, 703, 704)); 21 CFR 5.10 and 5.11.

2. Section 610.12 is amended by revising paragraph (g)(4)(i), to read as follows:

§ 610.12 Sterility.

* * * * *

(g) * * *

(4) *Test precluded or not required.* (i) The tests prescribed in this section need not be performed for Whole Blood, Cryoprecipitated AHF, Platelets, Red Blood Cells, Plasma, Source Plasma, Smallpox Vaccine, Reagent Red Blood Cells, Anti-Human Globulin, or Blood Grouping Reagent.

* * * * *

§ 610.53 [Amended]

3. Section 610.53 *Dating periods for licensed biological products* is amended in the table in paragraph (c) under the column heading "Product" by revising "Blood Grouping Serums" to read "Blood Grouping Reagents".

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

4. The authority citation for 21 CFR Part 640 continues to read as follows:

Authority: Secs. 201, 501, 502, 505, 510, 701, 52 Stat. 1040–1042 as amended, 1049–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948, 76 Stat. 794–795 as amended (21 U.S.C. 321, 351, 352, 355, 360, 371) and the Public Health Service Act (secs. 351, 361, 58 Stat. 702 as amended (42 U.S.C. 262, 264)) and the Administrative Procedure Act (secs. 4, 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 702, 703, 704)); 21 CFR 5.10 and 5.11

§ 640.5 [Amended]

5. Section 640.5 *Testing the blood* is amended as follows:

a. In paragraph (b), "Blood Grouping Serums" is revised to read "Blood Grouping Reagents".

b. In paragraph (c), "Blood Grouping Serum" is revised to read "Blood Grouping Reagent", and "Anti-Rh Typing Serums" is revised to read "Anti-Rh Blood Grouping Reagents", wherever they appear.

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

6. The authority citation for 21 CFR Part 660 continues to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690, as amended, 702, as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

7. Part 660 is amended by revising Subpart C, consisting of §§ 660.20 through 660.28, to read as follows and § 660.29 is removed:

Subpart C—Blood Grouping Reagent

Sec.

Subpart C—Blood Grouping Reagent

§ 660.20 Blood Grouping Reagent.

(a) *Proper name and definition.* The proper name of this product shall be Blood Grouping Reagent and it shall consist of an antibody-containing fluid prepared by a method demonstrated to yield consistently a sterile product and containing one or more of the blood grouping antibodies listed in § 660.28(d).

(b) *Source.* The source of this product shall be blood, plasma, serum, or protein-rich fluids, such as those derived from stable immunoglobulin-secreting cell lines maintained either in tissue cultures or in secondary hosts.

§ 660.21 Processing.

(a) *Processing method.* (1) The processing method shall be one that has been shown to yield consistently a specific, potent final product, free of properties that would affect adversely the intended use of the product throughout its dating period. Stability testing shall be performed on an adequate number of representative samples of each group of products manufactured in the same fashion.

(2) Only that material that has been fully processed, thoroughly mixed in a single vessel, and sterile filtered shall constitute a lot.

(3) A lot may be subdivided into clean, sterile vessels. Each subdivision shall constitute a sublot. If lots are to be subdivided, the manufacturer shall include this information in the license application. The manufacturer shall describe the test specifications to verify that each sublot is identical to other sublots of the lot.

(4) Each lot of Blood Grouping Reagent shall be identified by a lot number. Each sublot shall be identified by that lot number to which a distinctive prefix or suffix shall be added. Final container and package labels shall bear the lot number and all distinctive prefixes and suffixes that have been applied to identify the sublot from which filling was accomplished.

(b) *Color coding of reagents.* Blood Grouping Reagents may be colored provided the added colorant does not adversely affect the safety, purity, or potency of the product and the colorant is approved by the Director, Center for Biologics Evaluation and Research (HFN–830), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892.

(c) *Final containers and dropper assemblies.* Final containers and dropper pipettes shall be colorless and sufficiently transparent to permit observation of the contents to detect particulate matter or increased turbidity during use.

(d) *Volume of final product.* Each manufacturer shall identify the possible final container volumes in the product license application.

(e) *Date of manufacture.* The date of manufacture shall be the date the manufacturer begins the last entire group of potency tests.

(Collection of information requirements approved by the Office of Management and Budget under number 0910–0209)

§ 660.22 Potency requirements with reference preparations.

(a) *Potency requirements.* Products for which reference Blood Grouping Reagents are available shall have a potency titer value at least equal to that of the reference preparation.

(b) *Reference preparations.* Reference Blood Grouping Reagents shall be obtained from the Center for Biologics Evaluation and Research (HFN–890), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, and shall be used as described in the accompanying package insert for determining the potency of Blood Grouping Reagents.

(Collection of information requirements approved by the Office of Management and Budget under number 0910–0209)

§ 660.25 Potency tests without reference preparations.

Products for which Reference Blood Grouping Reagents are not available shall be tested for potency by a method approved by the Director, Center for Biologics Evaluation and Research (HFN–830), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892.

(a) *Potency requirements.* Blood Grouping Reagents recommended for the test tube methods, including the indirect antiglobulin tests, shall have the following potency titer values, unless other values are approved by the Director, Center for Biologics Evaluation and Research (HFN–830), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892.

(1) For Anti-K, Anti-$\bar{k}$, Anti-Jk^a, Anti-Fy^a, Anti-C^w, at least 1+ reaction with a 1:8 dilution of the reagent.

(2) For Anti-S, Anti-s, Anti-P_1, Anti-M, Anti-I, Anti-e (saline), Anti-c (saline), and Anti-A_1, at least 1+ reaction with a 1:4 dilution of the reagent.

(3) For Anti-U, Anti-Kp^a, Anti-Kp^b, Anti-Js^a, Anti-Js^b, Anti-Fy^b, Anti-N, Anti-Le^a, Anti-Le^b, Anti-Lu^a, Anti-Lu^b, Anti-Di^a, Anti-M^g, Anti-Jk^b, Anti-Co^b, Anti-Wr^a, and Anti-Xg^a, at least 2+ reaction with undiluted reagent.

(b) *Products recommended for slide tests or microplate techniques.* Blood Grouping Reagent recommended for slide test methods or microplate techniques shall produce clearly positive macroscopic results when both undiluted reagent and reagent diluted with an equal volume of diluent are tested by all methods recommended in the manufacturer's package insert using red blood cells showing heterozygous or diminished expression of the corresponding antigen. The dilution shall be made with an equal volume of compatible serum or approved diluent.

(c) *Products recomended for use in an automated system.* The manufacturer of Blood Grouping Reagent that is recommended for use in an automated system shall demonstrate that its product when used both undiluted and diluted with an equal volume of diluent satisfactorily performs when tested with cells representing heterozygous or diminished expression of the corresponding antigen.

(Collection of information requirements approved by the Office of Management and Budget under number 0910-0209)

§ 660.26 Specificity tests and avidity tests.

Specificity and avidity tests shall be performed using test procedures approved by the Director, Center for Biologics Evaluation and Research (HFN-830), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892.

(Collection of information requirements approved by the Office of Management and Budget under number 0910-0209)

§ 660.28 Labeling.

In addition to the applicable labeling requirements of §§ 610.62 through 610.65 and § 809.10, and in lieu of the requirements in §§ 610.60 and 610.61, the following requirements shall be met:

(a) *Final container label*—(1) *Color coding.* The final container label of all Blood Grouping Reagents shall be completely white, except that all or a portion of the final container label of the following Blood Grouping Reagents may be color coded with the specified color which shall be a visual match to a specific color sample designated by the Director, Center for Biologics Evaluation and Research (HFN-830), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892. Printing on all final container labels shall be in solid black. A logo or company name may be placed on the final container label; however, the logo or company name shall be located along the bottom or end of the label, outside the main panel.

Blood grouping reagent	Color of label paper
Anti-A	Blue.
Anti-B	Yellow.
Slide and rapid tube test blood grouping reagents only:	
Anti-C	Pink.
Anti-D	Gray.
Anti-E	Brown.
Anti-CDE	Orange.
Anti-c	Lavender.
Anti-e	Green.

(2) *Required information.* The proper name "Blood Grouping Reagent" need not appear on the final container label provided the final container is distributed in a package and the package label bears the proper name. The final container label shall bear the following information:

(i) Name of the antibody or antibodies present as set forth in paragraph (d) of this section.

(ii) Name, address (including ZIP code), and license number of the manufacturer.

(iii) Lot number, including sublot designations.

(iv) Expiration date.

(v) Source of product if other than human plasma or serum.

(vi) Test method(s) recommended.

(vii) Recommended storage temperature in degrees Celsius.

(viii) Volume of product if a liquid, or equivalent volume for a dried product if it is to be reconstituted.

(ix) If a dried product, to remind users to record the reconstitution date on the label, the statement "RECONSTITUTION DATE _____. EXPIRES 1 YEAR AFTER RECONSTITUTION DATE."

(3) *Lettering size.* The type size for the specificity of the antibody designation on the labels of a final container with a capacity of less than 5 milliliters shall be not less than 12 point. The type size for the specificity of the antibody designations on the label of a container with a capacity of 5 milliliters or more shall be not less than 18 point.

(4) *Visual inspection.* When the label has been affixed to the final container, a sufficient area of the container shall remain uncovered for its full length or no less than 5 millimeters of the lower circumference to permit inspection of the contents. The label on a final product container for antibodies Anti-c, Anti-k, or Anti-s shall display a bar immediately over the specificity letter used in the name, i.e., Anti-c, Anti-k, or Anti-s.

(b) *Package label.* The following information shall appear either on the package label or on the final container label if it is visible within the package.

(1) Proper name of the product.

(2) Name of the antibody or antibodies present as set forth in paragraph (d) of this section.

(3) Name, address (including ZIP Code), and license number of the manufacturer.

(4) Lot number, including sublot designations.

(5) Expiration date.

(6) Preservative used and its concentration.

(7) Number of containers, if more than one.

(8) Volume or equivalent volume for dried products when reconstituted, and precautions for adequate mixing when reconstituting.

(9) Recommended storage temperature in degrees Celsius.

(10) Source of the product if other than human serum or plasma.

(11) Reference to enclosed package insert.

(12) If a dried product, a statement indicating the period within which the product may be used after reconstitution.

(13) The statement: "FOR IN VITRO DIAGNOSTIC USE."

(14) The statement: "MEETS FDA POTENCY REQUIREMENTS."

(15) If human blood was used in manufacturing the product, the statement: "CAUTION: ALL BLOOD PRODUCTS SHOULD BE TREATED AS POTENTIALLY INFECTIOUS. SOURCE MATERIAL FROM WHICH THIS PRODUCT WAS DERIVED WAS FOUND NEGATIVE WHEN TESTED IN ACCORDANCE WITH CURRENT FDA REQUIRED TESTS. NO KNOWN TEST METHODS CAN OFFER ASSURANCE THAT PRODUCTS DERIVED FROM HUMAN BLOOD WILL NOT TRANSMIT INFECTIOUS AGENTS."

(16) A statement of an observable indication of an alteration of the product, e.g., turbidity, color change, precipitate, that may indicate possible deterioration of the product.

(c) *Package insert.* Each final container of Blood Grouping Reagent shall be accompanied by a package insert meeting the requirements of § 809.10. If two or more final containers requiring identical package inserts are placed in a single package, only one package insert per package is required.

(d) *Names of antibodies.*

Blood group designation for container label
Anti-A
Anti-A_1
Anti-A, B
Anti-A and B
Anti-B
Anti-C
Anti-C^w
Anti-$\overline{C}$
Anti-CD
Anti-CDE
Anti-Co^b
Anti-D
Anti-DE
Anti-Di^a
Anti-E
Anti-e
Anti-Fy^a
Anti-Fy^b
Anti-I
Anti-Jk^a
Anti-Jk^b
Anti-Js^a
Anti-Js^b
Anti-K
Anti-$\overline{k}$
Anti-Kp^a
Anti-Kp^b
Anti-Le^a
Anti-Le^b
Anti-Lu^a
Anti-Lu^b
Anti-M
Anti-M^g
Anti-N
Anti-P_1
Anti-S
Anti-$\overline{s}$
Anti-U
Anti-Wr^a
Anti-Xg^a

(Collection of information requirements approved by the Office of Management and Budget under number 0910–0209)

Dated: February 26, 1988.

Adam J. Trujillo,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–8451 Filed 4–18–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 657

Certification of Size and Weight Enforcement; Technical Amendment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is correcting the name of the office which receives a copy of the State's yearly enforcement certification. This is merely a technical correction since it involves internal mail routing.

EFFECTIVE DATE: April 19, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Philip W. Blow, Office of Motor Carrier Information Management and Analysis, (202) 366–4036; or Mr. Michael Laska, Office of the Chief Counsel, (202) 366–1383, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Present regulations (23 CFR 657.17) require the FHWA Division Office to forward one copy of a State's yearly size and weight certification to the Associate Administrator for Engineering and Traffic Operations. The recipient of the certification has been changed to the Associate Administrator for Motor Carriers. Consequently, this regulation is being updated to eliminate any possible confusion as to where the yearly certification is to be sent.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The amendment in this document is primarily technical in nature and is needed solely to update the regulations to reflect a revision relating to the agency's internal management. For this reason and since this rule imposes no additional burdens on the States or other Federal agencies, the FHWA finds good cause to make this regulation final without prior notice and opportunity for comments and without a 30-day delay in effective date under the Administrative Procedure Act. For the same reason, notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, this final rule is effective upon publication in the **Federal Register.**

Since the change in this document is primarily nonsubstantive in nature and relates to internal agency management and procedures, the anticipated economic impact, if any, is minimal. Therefore, a full regulatory evaluation is not required. For the above reasons and under the criteria of the Regulatory Flexibility Act, the FHWA certifies that this final rule will not have significant impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations regarding intergovernmental consultation of Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Part 657

Grant programs—transportation, Highways and roads, Motor vehicles, Reporting and recordkeeping requirements, Vehicle size and weight.

In consideration of the foregoing, the FHWA hereby amends Part 657 of Title 23, Code of Federal Regulations, as set forth below.

PART 657—[AMENDED]

1. The authority citation for Part 657 continues to read as follows:

Authority: Sec. 123, Surface Transportation Assistance Act of 1978, Pub. L. 95–599, 92 Stat. 2869; 23 U.S.C. 127, 141, and 315; 49 CFR 1.48(b).

2. In § 657.17, paragraph (b) is revised to read as follows:

§ 657.17 Certification submittal.

* * * * *

(b) The Division office shall forward the original certification to the Office of the Chief Counsel and one copy to the Associate Administrator for Motor Carriers. Copies of appropriate evaluations and/or comments shall accompany any transmittal.

Issued on: April 13, 1988.

Robert E. Farris,

Deputy Administrator, Federal Highway Administration.

[FR Doc. 88–8583 Filed 4–18–88; 8:45 am]

BILLING CODE 4910–22–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–49

[FPMR Amdt. H–166]

Utilization, Donation, and Disposal of Foreign Gifts and Decorations

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This amendment redefines "minimal value" based on the increase in the Department of Labor Consumer Price Index report of September 30, 1986. This amendment also provides for foreign gifts and decorations to be offered to recipients for purchase, in those cases where recipients have indicated an interest in purchasing the items, before the gifts or decorations are offered to State agencies for donation. Procedures are defined for physical custody, value appraisal, and sale of these foreign gifts and decorations. In addition, this amendment changes the period of restriction imposed on donated foreign gifts and decorations.

EFFECTIVE DATE: April 19, 1988.

FOR FURTHER INFORMATION CONTACT: Stanley M. Duda, Director, Property Management Division, (703) 557–1240.

SUPPLEMENTARY INFORMATION: 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, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–49

Conflict of interests, Decorations, Medals, Awards, Foreign relations, Government property, Government property management.

Accordingly, 41 CFR Part 101–49 is amended as follows:

PART 101–49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

1. The authority citation for Part 101–49 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); and sec. 515, 91 Stat. 862 (5 U.S.C. 7342).

2. The table of contents for Part 101–49 is amended by revising the following entries:

101–49.104 [Reserved]
101–49.107 Sale to recipients.

Subpart 101–49.1—General Provisions

3. Section 101–49.001–5 is amended by revising the introductory paragraph to read as follows:

§ 101–49.001–5 Minimal value.

"Minimal value" means a retail value in the United States at the time of acceptance of $180 or less, except that:

* * * * *

4. Section 101–49.101 is amended by revising paragraph (a) to read as follows:

§ 101–49.101 Custody of gifts and decorations.

(a) GSA normally will not take custody of gifts and decorations for which recipients have expressed an interest in purchasing. All such gifts and decorations shall remain in the physical custody and be the responsibility of the employing agency until recipients either purchase or decline to purchase. GSA will accept physical custody of gifts and decorations which recipients decline to purchase and which are not retained for official use or returned to the donors.

* * * * *

5. Section 101–49.102 is amended by revising paragraph (b) to read as follows:

§ 101–49.102 Care and handling.

* * * * *

(b) Each employing agency shall be responsible for and bear the cost of care and handling of gifts and decorations in its custody and for delivery of the gifts and decorations to the physical custody of GSA.

§ 101–49.104 [Removed and Reserved]

6. Section 101–49.104 is removed and reserved.

7. Section 101–49.105 is revised to read as follows:

§ 101–49.105 Appraisals.

When a recipient indicates an interest in purchasing a gift, the employing agency shall obtain a commercial appraisal before reporting the gift to GSA. The gift is to be reported to GSA on Standard Form (SF), Report of Excess Personal Property, for utilization screening prior to sale to the recipient. The commercial appraisal may be either attached to the SF 120, or completed and furnished separately to GSA after utilization screening is completed.

8. Section 101–49.107 is revised to read as follows:

§ 101–49.107 Sale to recipients.

Gifts and decorations for which there are no Federal requirements as determined by GSA, may be offered for sale to recipients as provided in § 101–49.402 prior to donation to authorized donees under the provisions of Subpart 101–49.3, when so requested by recipients.

9. Section 101–49.108 is revised to read as follows:

§ 101–49.108 Disposal of firearms.

Firearms reported to GSA as foreign gifts may be offered for transfer to Federal agencies, including law enforcement activities. Firearms not required for Federal use may be sold to interested recipients at the discretion of GSA. A certification that the recipient shall comply with all State and local laws regarding purchase and possession of firearms must be received by GSA prior to release of such firearms to the purchaser. Those firearms not tranferred to a Federal activity or sold to recipients shall be destroyed in accordance with § 101–45.309–4.

Subpart 101–49.2—Utilization of Foreign Gifts and Decorations

10. Section 101–49.201–1 is amended by revising the introductory text in paragraph (a) and by revising paragraph (b) to read as follows:

§ 101–49.201–1 Gifts and decorations required to be reported.

(a) Except as provided in § 101–49.106 and § 101–49.201–2, tangible gifts and decorations that are not retained for official use or returned to the donor shall be reported to GSA. Tangible gifts and decorations that have been retained for official use shall be reported to GSA within 30 calendar days after termination of the official use. Gifts and decorations shall be reported on SF 120, Report of Excess Personal Property (see § 101–43.4901–120), to the General Services Administration, Property Management Division (FBP), Washington, DC 20406. The SF 120 shall be conspicuously marked "FOREIGN GIFTS AND/OR DECORATIONS" and include the following information:

* * * * *

(b) Gifts and decorations received by the President or a member of the President's family normally are handled by the National Archives and Records Administration.

* * * * *

11. Section 101–49.201–2 is amended by revising paragraph (a)(3) to read as follows:

§ 101–49.201–2 Gifts and decorations not to be reported.

(a) * * *

(3) Gifts and decorations below minimal value retained by employee recipients with the approval of the employing agency;

* * * * *

12. Section 101–49.202 is amended by revising paragraphs (b) and (e) to read as follows:

§ 101–49.202 Transfers to other Federal agencies.

* * * * *

(b) Transfers will be accomplished by submitting for approval a SF 122, Transfer Order Excess Personal Property (see § 101–43.4901–122), or any other transfer order form approved by GSA, to the General Services Administration, Property Management Division (FBP), Washington, DC 20406. The SF 122, or other transfer order forms, shall be conspicuously marked "FOREIGN GIFTS AND/OR

DECORATIONS" and include all information furnished by the employing agency as specified in § 101–49.201–1(a).

* * * * *

(e) The transfer document shall include the following statement: "At such time as these items are no longer required, they will be reported to the General Services Administration, Property Management Division (FBP), Washington, DC 20406, and will be identified as foreign gift items and cross-referenced to the original excess report number."

13. Section 101–49.204 is revised to read as follows:

§ 101–49.204 Gifts and decorations no longer required by the transferee agency.

Gifts and decorations no longer required by the transferee agency shall be reported to the General Services Administration as provided in § 101–49.201–1 and shall include the transfer order number from the original transfer order or a copy of that order.

Subpart 101–49.3—Donation of Foreign Gifts and Decorations

14. Section 101–49.301 is amended by revising paragraph (a) to read as follows:

§ 101–49.301 Donation of gifts and decorations.

(a) Gifts and decorations not required for Federal use or sold to recipients will be made available at the discretion of GSA through State agencies to appropriate public agencies and eligible nonprofit tax-exempt activities for a period of 21 calendar days following the period of Federal utilization screening as provided in § 101–49.202(a).

* * * * *

15. Section 101–49.302 is amended by revising paragraph (a) and paragraph (b)(3) to read as follows:

§ 101–49.302 Requests by public agencies and nonprofit tax-exempt activities.

(a) All transfers of gifts and decorations to the State agencies for donation to public agencies and eligible nonprofit tax-exempt activities shall be accomplished by use of SF 123, Transfer Order Surplus Personal Property (see § 101–44.4901–123). The SF 123, with any additional required documentation, shall be submitted for approval to the General Services Administration, Property Management Division (FBP), Washington, DC 20406. The SF 123 shall be prepared in accordance with the instructions in § 101–44.4901–123–1 and shall be conspicuously marked "FOREIGN GIFTS AND/OR DECORATIONS."

(b) * * *

* * * * *

(3) Details on the planned utilization of the gift or decoration, including where and how it will be used and how it will be safeguarded.

16. Section 101–49.304 is amended by revising paragraphs (b) and (e), and adding paragraphs (f) and (g) to read as follows:

§ 101–49.304 Conditions of donation.

* * * * *

(b) There shall be a period of restriction which will expire after the gift or decoration has been used for the purpose stated in the letter of intent for a period of 10 years, except that GSA may restrict the use of the gift or decoration for such period as may be prescribed by GSA when the inherent character of the property justifies such action.

* * * * *

(e) If, at any time during the period of restriction, the gift or decoration is no longer suitable, usable, or needed by the donee for the purpose stated in the letter of intent, the donee shall promptly notify the General Services Administration, Property Management Division (FBP), Washington, DC 20406, through the State agency, and upon demand by GSA, title and right to possession of the gift or decoration shall revert to the U.S. Government. In this event, the donee shall comply with transfer or disposition instructions furnished by GSA through the State agency, with costs of transportation, handling, and reasonable insurance during transportation to be paid by the donee or as directed by GSA.

(f) The donee shall comply with all additional conditions covering the handling and use of any gift or decoration imposed by GSA.

(g) Upon the donee's failure to comply with any applicable condition or limitation during the period of restriction, the State agency may demand return of the gift or decoration and, upon demand, title and right to possession of the gift or decoration shall revert to the U.S. Government. In this event, the donee shall return the gift or decoration in accordance with instructions furnished by the State agency, with costs of transportation, handling, and reasonable insurance during transportation to be paid by the donee or as directed by the State agency. If the gift or decoration is lost, stolen, or cannot legally be recovered or returned for any other reason, the donee shall pay to the U.S. Government the fair market value of the gift or decoration at the time of its loss, theft, or at the time that it became unrecoverable as determined by GSA. If the gift or decoration is damaged or destroyed, the State agency may require the donee to:

(1) Return the item and pay the difference between its former fair market value and its current fair market value, or

(2) Pay the fair market value, as determined by GSA, of the item had it not been damaged or destroyed.

17. Section 101–49.307 is revised to read as follows:

§ 101–49.307 Donation of gifts withdrawn from sale.

Gifts that are being offered for public sale may be withdrawn and approved for donation in accordance with § 101–44.107.

Subpart 101–49.4—Sale or Destruction of Foreign Gifts and Decorations

18. Section 101–49.400 is revised to read as follows:

§ 101–49.400 Scope of subpart.

This subpart prescribes policies and procedures governing the sale of foreign gifts and decorations to recipients and the disposal by either sale or destruction of foreign gifts and decorations which GSA has determined are not needed for Federal utilization or donation.

Dated: March 31, 1988.

Paul Trause,

Acting Administrator of General Services.

[FR Doc. 88–8466 Filed 4–18–88; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–115; RM–5538]

Radio Broadcasting Services; Seaside, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 278A to Seaside, California, as that community's second local FM service, in response to a petition filed on behalf of Dr. H. H. Lusk. The allotment is made with a site restriction 4.7 kilometers southwest of Seaside. The restricted site coordinates are 36–34–45 and 121–52–05. With this action, the proceeding is terminated.

DATES: *Effective* May 31, 1988. The window period for filing applications on

Channel 278A at Seaside, California, will open on June 1, 1988, and close on July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632–0394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–115, adopted March 23, 1988, and released April 13, 1988. 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. Section 73.202(b), the Table of FM Allotments, is amended by revising the entry for Seaside, California, to add Channel 278A.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–8525 Filed 4–18–88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–430; RM–5310 and 5687]

Radio Broadcasting Services; Bogue Chitto and Utica, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Notice of Proposed Rule Making was issued in response to a petition filed by Bogue Chitto Broadcasting Company, requesting the allotment of FM Channel 225A to Bogue Chitto. Petitioner filed supporting comments but has since withdrawn those comments. As stated in the Appendix to the Notice, continuing interest is required before a channel will be allocated. Therefore, in accordance with the Commission's policy, no further consideration will be given to the allocation of FM Channel 225A at Bogue Chitto, Mississippi.

A counterproposal was filed by Chautauqua Broadcasting Company, Inc. seeking the allotment of FM Channel 225A to Utica, Mississippi. Chautauqua Broadcasting indicated its intention to file an application for the use of the channel at Utica. Channel 225A can be allocated to Utica, Mississippi, in compliance with the spacing requirements provided there is a site restriction 10.5 kilometers (6.5 miles) northeast of the community. The site restriction will prevent a conflict with Station KQID, Channel 226C, Alexandria, Louisiana. The coordinates for the restricted site are 32–08–28 and 90–31–06. With this action, this proceeding is terminated.

DATES: *Effective* May 31, 1988. The window period for filing applications will open on June 1, 1988, and close on July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–430, adopted March 24, 1988, and released April 13, 1988. 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 FM Allotments is amended under Mississippi by adding FM Channel 225A to Utica.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–8527 Filed 4–18–88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–323; RM–5341]

Radio Broadcasting Services; Webb City, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 230C2 for Channel 232A at Webb City, Missouri, in response to a petition filed by J. R. Communications Company. We shall also modify the license of Station KIKQ to specify operation on Channel 230C2 in lieu of Channel 232A. The coordinates for the current site are 37–14–34 and 94–30–21. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 31, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–323, adopted March 28, 1988, and released April 13, 1988. 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 FM Allotments under Missouri is amended by deleting Channel 232A and adding Channel 230C2 at Webb City.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–8528 Filed 4–18–88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-59; RM-5535]

Radio Broadcasting Services; Outlook, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 289C to Outlook, Montana, in response to a petition filed by Timothy D. Martz. Canadian concurrence has been obtained for this allotment. The coordinates for this allotment are 48–53–18 and 104–46–42. With this action, this proceeding is terminated.

DATES: *Effective* May 31, 1988. The window period for filing applications will open on June 1, 1988, and close on July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–59, adopted March 28, 1988, and released April 13, 1988. 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 FM Allotments is amended under Montana by adding Channel 289C at Outlook.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–8529 Filed 4–18–88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-129; RM-5681]

Radio Broadcasting Services; Marlboro, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 268A to Marlboro, Vermont, as that community's first FM service, at the request of Marrian Akley. A site restriction of 2.7 kilometers (1.7 miles) northwest of the city is required. In addition, Canadian concurrence has been obtained. With this action, this proceeding is terminated.

DATES: *Effective* May 31, 1988. The window period for filing applications will open on June 1, 1988, and close on July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–129, adopted March 24, 1988, and released April 13, 1988. 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. Section 73.202(b), the Table of FM Allotments is amended under Vermont, by adding Channel 268A to Marlboro.

Steve Kaminer,

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

[FR Doc. 88–8530 Filed 4–18–88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-148; RM-4931]

Television Broadcasting Services; Grand Junction, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots VHF television Channel 11 to Grand Junction, Colorado, and dismisses a counterproposal by W. Russell Withers, Jr. to allocate VHF Channel *13 to Grand Junction reserved for noncommercial educational use and dereserve vacant UHF Channel *18 for commercial use. The counterproposal was dismissed for lack of an interest in either of these allotments. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 23, 1988.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–148, adopted March 15, 1988, and released April 11, 1988. 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

Television broadcasting.

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. Section 73.606, the Television Table of Allotments, is amended under Colorado by adding Channel 11+ at Grand Junction.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 88–8526 Filed 4–18–88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE TREASURY

48 CFR Part 1033

Acquisition Regulations; Submission and Disposition of Protests

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: This regulation establishes uniform procedures in 48 CFR Part 1033 for submission and disposition of protests filed with the Department of the Treasury. The regulation is intended to provide standard time frames for filing of agency-level protests, a clear format for such protests, and guidance to Treasury bureau procurement offices for handling agency protests.

EFFECTIVE DATE: April 19, 1988.

SUPPLEMENTARY INFORMATION:

A. Public Comments

A notice of proposed rule was published in the **Federal Register** on December 24, 1987 (52 FR 48729–48730). Two sources made public comments which recommended a total of 21 changes. As a result of these comments, revisions were made to the regulation as follows:

1. Additional objectives were added to the policy statement in 1033.103(a).
2. Details were added to 1033.103(b)(1) regarding the appropriate contracting officer to receive protests.
3. The procedures for filing protests were revised in 1033.103(b)(2), 1033.103(b)(3), 1033.103(b)(6), and 1033(b)(9) to mirror more closely the GAO bid protest regulations (4 CFR 21.2(a)(1) and (a)(2), 4 CFR 21.4(b)) and FAR 33.103 and 33.104(a)(2).
4. Provision was made for an informal conference in 1033.103(b)(5).
5. Various editorial corrections and clarifications were made.

B. Special Analyses

It is hereby certified that the proposed rule will not have a significant economic impact on a substantial number of small entities. Accordingly, the analysis requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. The regulation clarifies protest procedures and does not affect the rights of any entity to make a protest.

This document relates to agency organization and management. Accordingly, it is not subject to Executive Order 12291. This final rule is not subject to the delayed effective date requirement of 5 U.S.C. 553(d) pursuant to 5 U.S.C. 553(a)(2), which exempts from section 553 matters relating to agency management or contracts.

C. Paperwork Reduction Act

The collection of information contained in the proposed regulation has been approved by the Office of Management and Budget pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) and has been assigned OMB Control Number 1505–01C7, expiration date 2/29/89.

List of Subjects in 48 CFR Part 1033

Government procurement, Protests, Disputes, Appeals.

Dated: April 11, 1988.

Thomas P. O'Malley,

Director, Office of Procurement [Procurement Executive].

Title 48 of the Code of Federal Regulations is amended as set forth below:

PART 1033—PROTESTS, DISPUTES, AND APPEALS

1. The authority citation for Part 1033 continues to read as follows:

Authority: 41 U.S.C. 418b (a) and (b), as delegated by Department of the Treasury Orders 101–30 and Treasury Directive 12–11.

2. Subpart 1033.1, consisting of section 1033.103, is added to read as follows:

Subpart 1033.1—Protests

1033.103 Protests to the Agency.

(a) *Policy.* It is the Department's policy to resolve protests in an informal manner whenever possible. Protesters are strongly encouraged to address their concerns to the contracting officer prior to resorting to litigation or other formal, external means of resolution. The objectives of the following procedures are to resolve agency protests effectively, to help build confidence in the Department's procurement system, to reduce the need to file protests at GAO or GSBCA, and to provide both the Department and the protester maximum information regarding their respective positions.

(b) *Procedures.* (1) Agency protest may be submitted by interested parties to the contracting officer, who will normally be designated in FAR provision 52.233–2 of the solicitation.

(2) Protests based on alleged improprieties in a solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals. In negotiated acquisitions, alleged improprieties which do not exist in the initial solicitation but which are subsequently incorporated into the solicitation must be protested not later than the next closing date for receipt of proposals following the incorporation.

(3) In cases other than those covered in paragraph (b)(2) of this section, protests shall be filed not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier.

(4) Protests shall be in writing and shall include, as a minimum, the following information:

(i) Name, address, and telephone number of the protestor;

(ii) Solicitation or contract number;

(iii) Detailed statement of the legal and factual grounds for the protest, including copies of relevant documents;

(iv) Request for a ruling by the contracting officer to whom the protest is submitted;

(v) Statement as to the form of relief requested.

(5) Protest submissions shall be concise, logically arranged, and state sufficient grounds of protest. Failure to comply with any of the above requirements may be grounds for dismissal of the protest. A protester may request an informal conference with the contracting officer, which may be granted at the latter's sole discretion.

(6) Upon receipt of an agency protest, the contracting officer shall:

(i) Immediately notify legal counsel and the Departmental Office of Procurement (MMK) and provide each with a copy of the protest;

(ii) Prepare a report as prescribed in FAR 33.104(a)(2), except that, if the contract action or contract performance continues after receipt of the protest, the report shall include any determination prescribed in FAR 33.103(a) or 1033.103(b)(9) below;

(iii) Obtain review of the protest response by legal counsel and forward the protest response for MMK review and approval at least three working days prior to the due date; and

(iv) Ensure that the protest response is received by the protester no later than 25 working days after receipt of the protest.

(7) If the contracting officer and the protester agree on corrective action, a report is not required; however, in addition to amending the solicitation or taking other corrective action, the contracting officer shall inform the protester in writing of the proposed corrective action and shall obtain from the protester a written notice withdrawing the protest. A copy of this notice and any amendment shall be provided to MMK.

(8) If a written protest before award has been lodged with the contracting officer, only the bureau chief procurement officer may make the determination described in FAR 33.103(a). Prior to making an award of a contract under the circumstances in FAR 33.103(a), the advice of legal counsel shall be obtained.

(9) If a written protest after award has been lodged with the contracting officer,

the bureau chief procurement officer may authorize contract performance notwithstanding the pending protest if he or she makes a written determination that (i) performance of the contract is in the Government's best interest, or (ii) urgent and compelling circumstances significantly affecting interests of the United States do not permit waiting for the protest decision. A copy of this determination shall be forwarded to MMK.

(Approved by the Office of Management and Budget under control number 1505–0107)

[FR Doc. 88–8516 Filed 4–18–88; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 71147–8002]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the joint venture processing (JVP) portion of the domestic annual harvest (DAH) under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). Groundfish are apportioned according to the regulations implementing the FMP. The intent of this action is to assure optimum use of these groundfish by allowing domestic fisheries to proceed without interruption.

DATES: Effective April 14, 1988. Comments will be accepted through April 29, 1988.

ADDRESS: Comments should be mailed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Resource Management Specialist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the exclusive economic zone under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council (Council) and implemented by rules appearing at 50 CFR 611.93 and Part 675. The total allowable catch (TAC) for various goundfish species are apportioned initially among DAH, reserves, and the total allowable level of foreign fishing (TALFF). The reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under 50 CFR 611.93(c) and 675.20(b). As soon as practicable after April 1, June 1, August 1, and on such other dates as are necessary the Secretary of Commerce apportions to DAH all or part of the reserve that he finds will be harvested by U.S. vessels during the remainder of the year, except that part or all of the reserve may be withheld if an apportionment would adversely affect the conservation of groundfish resources or prohibited species.

The initial specifications of domestic annual processing (DAP) for 1988 were based on the projected needs of the U.S. processing industry as assessed by a mail survey sent by the Director, Alaska Region, NMFS (Regional Director) to fishermen and processors in October, 1987. After fifteen percent of the Bering Sea and Aleutian Islands (BSA) total allowable catch (TAC) was placed in the non-specific reserve, as required at § 675.20(a)(3), the initial specifications for DAP were determined, and the remaining amounts were provided to JVP (53 FR 894, January 14, 1988). No initial specification was provided for TALFF because DAH needs exceeded the TAC.

On January 14, JVP was supplemented by 804 mt of the nonspecific reserve to provide necessary bycatch of Greenland turbot, Pacific ocean perch, rockfish, sablefish, and squid.

Reapportionment (Table 1)

TABLE 1.—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TAC

(All values are in metric tons)

		Current	This action	Revised
Yellowfin sole	DAP	26,356		26,356
TAC=254,000; ABC=254,000	JVP	189,544	+8,000	197,544
Other Flatfish	DAP	26,403		26,403
TAC=131,369; ABC=331,900	JVP	85,261	+10,000	95,261
Pacific cod	DAP	87,416		87,416
TAC=200,000; ABC=385,300	JVP	82,584	+6,000	88,584
Total (TAC=2,000,000)	DAP	792,520		792,520
	JVP	908,284	+24,000	932,284
	RESERVES	299,196	−24,000	275,196

The following actions are taken by this notice to reapportion groundfish from the non-specific reserve to BSA fisheries.

To the BSA JVP

In the Bering Sea, about ninety U.S. catcher boats delivering fish to about eighty foreign processors are conducting directed fisheries on yellowfin sole. At current catch rates, the JVP of yellowfin sole will be reached on April 10. To provide for continued JVP fishing for yellowfin sole up to the scheduled April 16 reopening for pollock and for bycatch amounts in the pollock fishery, 8,000 mt of the non-specific reserve is apportioned to the Bering Sea yellowfin sole JVP. Similarly, to prevent JVP quotas of "other flatfish" and Pacific cod being reached prior to April 16 and to provide bycatch amounts for the pollock fishery, 10,000 mt of "other flatfish" and 6,000 mt of Pacific cod are apportioned from the non-specific reserve to JVP.

These apportionments do not result in overfishing of the yellowfin sole, "other flatfish", or Pacific cod stocks, as in each case the resulting species TAC is less than its Acceptable Biological Catch (ABC).

Comments and Responses

In accordance with 50 CFR 611.93(c) and 675.20(b), aggregated reports on U.S. catches of Alaska groundfish and the processing of those groundfish were available for public inspection to facilitate informed public comment. In addition, those provisions afforded the public an opportunity to submit comments on the extent to which U.S.

fishermen will harvest and the extent to which U.S. processors will process Alaska groundfish. One comment was received.

Comment: Continuous fishing and processing are critical factors for the success of JVP operations. Amounts of pollock excess to the needs of DAP operations should be promptly apportioned to JVP from reserves and/or DAP in order to allow the JVP pollock fishery to proceed without unnecessary interruption after it reopens on April 16.

Response: At this time, there is considerable uncertainty about DAP needs for pollock for the remainder of 1988. The Regional Director has sent out the second DAP survey for 1988 groundfish production needs, to be returned by May 6. Analyses of the returns will serve as a basis for determining pollock amounts excess to the 1988 needs of DAP, which will then be apportioned to JVP in a timely manner.

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit fishermen who otherwise would have to forego substantial amounts of other groundfish species if fishing were closed as a result of achieving previously specified JVPs. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: April 14, 1988.

Ann D. Terbush,

Acting, Director of Fishery Conservation and Management.

[FR Doc. 88-8564 Filed 4-14-88; 4:42 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 75
Tuesday, April 19, 1988

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 24; Docket No. 5513S]

General Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) publishes this notice of the purpose of withdrawing a Notice of Proposed Rulemaking (NPRM) amending the General Crop Insurance Regulations (7 CFR Part 401). FCIC has determined that the effect of the proposed rule; changing the level of assigned coverage from level 2 to level 1 when an insured does not elect a coverage level, is inadequate for the purpose of achieving the intent of the Board of Directors of FCIC.

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

SUPPLEMENTARY INFORMATION: On Wednesday, December 2, 1987, FCIC published an NPRM in the **Federal Register** at 52 FR 45830, which proposed to amend the General Crop Insurance Regulations (7 CFR Part 401) to provide that the assigned level of coverage would be level 1 instead of the current level 2 if an insured did not elect coverage.

Upon review, FCIC determined that this action would not be taken at this time. The question of coverage level is under study at this time in connection with the sectional Production History Program. Therefore we believe that the proposed rule published at 52 FR 45830 should b[illegible] and is hereby withdrawn.

Done in Washington, DC, on April 3, 1988.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 88–8456 Filed 4–18–88; 8:45 am]

BILLING CODE 3410–08–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary; Research and Special Programs Administration

14 CFR Part 298

[Docket No. 45584; Notice No. 88–6]

Aviation Economic Regulations; Exemptions for Air Taxi Operations

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation (DOT) is proposing to amend Part 298 to require commuter air carriers to file Schedule F–1 "Report of Financial Data" of RSPA Form 298–C. This schedule is needed to obtain quarterly financial data (Total Operating Revenues, Total Operating Expenses, Net Profit or (Loss) and Passenger Revenues-Scheduled Service) from commuter air carriers providing scheduled passenger service. The information will be used primarily by the Department to monitor the continuing fitness of commuter air carriers as required by section 401(r) of the Federal Aviation Act of 1958, as amended. Secondarily, the financial information will benefit the Department's work in other program areas. For example, the data will assist in the administration of the Aviation Trust Fund and the Loan Guarantee Programs, in econometric modeling and regulatory cost-benefit analyses which supports aviation policy and regulatory decisions, and in FAA's allocation planning for its inspection resources.

DATES: Comments on the proposed rule must be received on or before June 20, 1988.

ADDRESS: Comments should be directed to the Docket Clerk, Docket 45584, Room 4107, Office of The Secretary, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Communications should identify the regulatory docket number and be submitted in duplicate to the DOT rules docket. Commenters wishing the Department to acknowledge receipt of their comments must submit a self-addressed stamped postcard on which the following statement is made: Comments on Docket No. 45584. The postcard will be date/time stamped and returned to the commenter. All communications received before the closing date for comments will be considered by the Administrator. Also, this proposal may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact concerned with this rulemaking will be filed in the docket.

FOR FURTHER INFORMATION CONTACT: Jack M. Calloway or Richard G. Minick, Office of Aviation Information Management, DAI–1, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street SW., Washington DC 20590, at (202) 366–4383 or (202) 366–4389, respectively.

SUPPLEMENTARY INFORMATION: Commuter air carriers evolved from the air taxi industry. Beginning with the enactment of the Civil Aeronautics Act of 1938 and continuing with the Federal Aviation Act of 1958 (FAAct), small aircraft operators have been exempted from most economic regulations. Commuter air carriers have been looked on as providing traffic feed to the certificated air carriers and connecting small isolated communities to the U.S. air transportation system. This is still their primary role today.

When Congress enacted the Airline Deregulation Act of 1978 (Pub. L. 95–504, October 24, 1978) (ADA), one of its primary objectives was to give more freedom to large certificated air carriers to enter and exit the domestic market place. Recognizing that this flexibility might result in many small communities receiving significantly reduced service or loss of service from certificated air carriers, the Small Community Air Service Program under section 419 was established by the ADA to guarantee a continuation of domestic service to small communities during the process of deregulation. Under this program, certain communities were guaranteed a

level of "essential air service", with Federal subsidy if necessary.

Section 419 gave added importance to commuters and recognized their contributions to the overall air transportation system. Under section 419, all commuters must undergo a fitness determination. The ADA also added section 401(r) to the Federal Aviation Act of 1958. Section 401(r) provides that the fitness requirement for air carriers is a continuing one and directs the Department to monitor the fitness of carriers it has found fit initially.

Since the inception of uniform traffic and capacity reporting for commuters in 1969, the commuter airline industry has grown in terms of passenger enplanements approximately 227 percent in the last decade and a half. Certificated air carrier enplanements have grown 131 percent. The high commuter growth rate compared to that of the certificated air carriers providing scheduled domestic passenger service during this same period has resulted in part because of the rapid growth of marketing alliances between certificated air carriers and commuters, whereby the certificated air carrier is assured of the commuter's traffic feed at the hub. Another major feature of these alliances is code sharing. Under code sharing, flights operated by the commuter are identified by the two-letter designator code of its partner in the computer reservation system and on passenger tickets. Another feature of many of the alliances is that the commuter aircraft is painted with the same colors, scheme, and logo of the partner, thus obscuring the identity of the commuter.

Growth rates for commuter airlines and certificated carriers are highlighted in the following table.

SCHEDULED SERVICE DOMESTIC PASSENGERS ENPLANED (000)

	Calendar year—December 31		Fiscal year—June 30	Growth between (percent)
	1970	1985	1986	1970–85
Commuters (excludes regionals)	[1] 4,270	[2] 13,970	[3] 14,486	227
Large certificated carriers	[4] 153,662	[5] 355,186	[6] 370,898	131

[1] *Commuter Air Carrier Traffic Statistics Year Ended December 31, 1970*, September 1971 edition.
[2] *Air Carrier Industry Scheduled Service Traffic Statistics Quarterly*, December 1985 edition.
[3] *Air Carrier Industry Scheduled Service Traffic Statistics Quarterly*, June 1986 edition.
[4] *Handbook of Airline Statistics*, 1973 edition.
[5] *Air Carrier Traffic Statistics*, December 1985 edition.
[6] *Air Carrier Statistics*, June 1986 edition.

FAA forecasts (FAA Aviation Forecasts Fiscal Years 1987–1998 (FAA–APO–87–1)) a growth rate for commuters and regional air carriers for the next 10 years of about 6.7 percent annually. Projecting the FY 1986 passenger enplanements of 14.5 million forward at the 6.7 percent growth rate shows that in the next decade the commuter industry will almost double or grow to an estimated 27.7 million domestic passenger enplanements.

Need for Data

The Department has reviewed its need for information in this rapidly expanding and increasingly important segment of the air transportation industry. In view of its responsibility to administer its mandated aviation responsibilities, and under the authority of section 407(a) of the FAAct, the Department of Transportation is proposing to collect four financial data elements on a quarterly basis from the commuter air carriers providing scheduled passenger service. The elements are (1) Total Operating Revenues, (2) Total Operating Expenses, (3) Net Income or (Loss), and (4) Passenger Revenues-Scheduled Service. They would be filed on RSPA Form 298–C, Schedule F–1 "Report of Financial Data." A copy of this schedule is included as Exhibit A to this rule.

Monitoring Continuing Fitness

Section 419 of the FAAct requires the Department to find all commuters "fit, willing, and able" to conduct scheduled passenger service as a prerequisite to providing such service to any eligible point. This fitness requirement is similar to that imposed on carriers seeking certificate authority under sections 401 and 418 of the FAAct.

In determining a carrier's fitness, the Department reviews three aspects of the carrier's operation: (1) The qualifications of its management team; (2) its disposition to comply with laws and regulations; and (3) its financial posture. In the last area, the Department must be able to determine that a prospective carrier has sufficient financial resources to conduct its proposed operation without imposing an undue risk on the traveling public. All applicants for commuter authority are required to file data pertaining to each of these areas as specified in 14 CFR Part 204 of the Department's Regulations.

Once a carrier has been found fit initially, section 401(r) of the FAAct requires that the carrier remain fit and directs the Department to monitor the continuing fitness of such carriers. While the Department reviews publicly available information on commuter operations, and periodically requires reports from specific commuters pertaining to their continuing fitness, there is no regular or recurrent means for receiving financial information on commuters. This differs from the situation involving certificated carriers which are required to file recurrent financial data.

In light of the increasingly important role played by commuters in the air transportation system it has become essential for the Department to have the ability to monitor the financial condition of commuter carriers as part of the Department's continuing fitness oversight responsibilities.

The filing of the proposed financial information would parallel that already submitted by small certificated carriers which operate aircraft and service of a size and nature similar to commuters.

Econometric Models

The reported financial data would be used in FAA econometric models to evaluate important policy issues such as the effects of changes in costs and taxes on demand for commuter aviation activity and total tax revenues. A valid financial base is necessary to project commuter costs and yields, and produce reliable traffic estimates. Unreliable traffic estimates could result in airport planning errors that produce either congested airports or underutilized airports. Errors in planning aviation airspace improvement programs could

materially affect safety of life and property and involve millions of dollars of unnecessary costs to commuter air carriers and the Federal Government.

Aviation Trust Fund

The Aviation Trust Fund Act requires the FAA to twice annually provide the Treasury Department and the OMB with adjusted estimates of aviation trust fund revenues. The two basic elements used to develop commuter revenue estimates are passenger revenues and revenue passenger miles. Without commuter revenue, the FAA has been estimating this statistic from the revenue information reported by small certificated air carriers. Small certificated air carriers are the most similar to commuters of any group reporting revenue data. The proposed data will provide the FAA with more accurate estimates for the commuter sector and provide a benchmark to review the overall reliability of its past estimates.

Regulatory Analysis and Evaluations

The proposed financial data will also assist the Department in its regulatory analysis functions. These data will aid in the internal review and revision of current regulation and in the formulation of new regulations. Any changes to existing regulations and the promulgation of new regulations must be justified based on cost/benefit analyses. The four requested financial data elements will provide some of the information necessary for the conduct of these analyses and evaluations and a baseline from which to evaluate comments by carriers on the economic impact of proposed changes to existing regulations and/or proposed new regulations.

Loan Guarantee Program

With the passage of the ADA, commuter air carriers were permitted to participate in the Loan Guarantee Program whereby the FAA guarantees the loan for the purchase of aircraft. The program expired in October 1983, but FAA has guaranteed payments through the mid-1990's. In some cases, commuters participating in the Aircraft Loan Guarantee Program have experienced financial difficulties and defaulted on their loans. Because of the budgetary difficulties for the Government created by defaults, the FAA will use the financial data to increase its monitoring efforts to identify potential problem carriers and to evaluate their financial posture in the context of the commuter industry as a whole.

Air Carrier Inspection Program

The FAA uses a variety of information to develop plans for allocation of its inspection resources for air carriers operating small aircraft. These include: accident, incident and enforcement statistics; operations facts (training, experience, etc.); aircraft descriptive data (owner, location, etc.); exposure statistics (traffic and capacity data reported to DOT on Form 298–C, Schedule A–1); and, financial data (reported to DOT by small certificated air carriers on Form 298–C, Schedule F–1). FAA plans to use commuter air carrier financial information to improve their planning process, including trend analysis and industry comparisons. It is anticipated this will facilitate the FAA's objectives to make optimal use of its inspection resources.

Alternate Reporting

As an alternative to the mandatory reporting proposed by this rulemaking, the CAB attempted to collect financial data from commuter air carriers on a voluntary basis in order to evaluate the initial and continuing fitness of these carriers. Scheduled passenger commuters subject to the section 419(c)(2) fitness provisions of the ADA were requested to voluntarily submit financial information to Dun and Bradstreet (D&B) for the four quarters of 1980 and 1981. It was believed that this voluntary program would be the most cost effective method of obtaining financial information from the commuters; however, it was also realized that the success of this program would depend entirely on the cooperation of the commuter carriers.

Prior to each submission deadline, carriers were contacted by letter and/or by telephone. Even though it was stressed that voluntary submission of financial statements to D&B represented the least costly and least burdensome way for the commuters to provide the financial data needed by the CAB, compliance with the request never reached 45 percent for any given quarter. For December 1981, the last quarter requested, only 21 percent of the commuters responded.

In addition to the apparent reluctance of commuters to voluntarily provide financial information to D&B, major problems were encountered concerning the uniformity of the information submitted by the commuters. The financial data that were received differed significantly as to the accounts and accounting treatment and varied widely as to reporting periods. Because of this, the information received could not be used for comparative analyses, thereby lessening its utility as an analytical tool.

The filings with the Securities and Exchange Commission (SEC) were recently reviewed by the Department as an alternate source for financial data. Of the approximately 140 commuters reporting traffic data to the Department, only six were filing financial data with SEC. This small number precluded the SEC filings from being considered a viable alternate data source.

Confidentiality

One major factor that seemed to encourage noncompliance with the voluntary system was the carriers' concern that their financial data would be publicly disclosed. Many commuters are privately or closely held, and their owners believe that disclosure of their financial data is not required in the interest of the public. The financial information filed by the commuters on RSPA Form 298–C, Schedule F–1 "Report of Financial Data" would be accorded a three year confidentiality period under § 298.62(d) of Part 298 (14 CFR 298.62(d)). This is the same confidential treatment accorded this schedule for small certificated air carriers. Aggregated data that does not identify individual carriers may be released any time. There is no absolute guarantee that the financial information can be withheld from disclosure if requested under the Freedom of Information Act. If such requests are filed, they will be dealt with on a case-by-case basis including contact with the commuter prior to release of information.

Individual carrier financial data withheld from public disclosure may be released by the Department to: (1) Parties to any proceeding before the Department to the extent such information is relevant and material to the issues in the proceeding upon a determination to this effect by the Department or the administrative law judge assigned to the case; (2) such persons and in such circumstances as the Department determines to be in the public interest or consistent with its regulatory functions and responsibilities, and (3) agencies and other components of the Federal Government for their internal use only. Certain information submitted in the Form 41 report has been accorded confidential treatment under similar guidelines, and the system has worked quite well. (Part 241, section 22(b).)

Administrative Notices

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act of 1980.

Executive Order 12291

This proposed action has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for customers, individual industries, Federal, State or local governments, agencies or geographical regions. Furthermore, this proposed rule would not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete in domestic or export markets. This proposed regulation would result in a very slight increase in reporting burden for commuter air carriers.

This proposed regulation is not significant under the Department's Regulatory Policies and Procedures, dated February 26, 1979, as it does not involve important Departmental policies. Its economic impact is minimal and full regulatory evaluation is not required. See Regulatory Flexibility Act Section on costs for the industry for implementing this proposal.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354), requires regulatory flexibility analyses for rules that, if adopted, will have a "significant economic impact on a substantial number of small entities." Under the Act, both an increase or decrease in economic impact must be considered by the agency.

Under DOT's definition, a direct air carrier will be considered a "small entity" if it provides air transportation only with small aircraft as defined in 14 CFR 399.73 (up to 60 seats and/or 18,000 pounds payload capcity). The proposed changes would affect commuter air carriers providing scheduled passenger service. The group fits the definition of "small entity" within the meaning of the Act and DOT definition. However, DOT tentatively finds that the addition of financial data reporting will not have a significant economic impact on scheduled passenger commuter air carriers.

The proposed rule would add four financial data elements that would be filed on a quarterly basis. These financial data elements would be: (1) Total Operating Revenues, (2) Total Operating Expenses, (3) Net Income or (Loss), and (4) Passenger Revenues-Scheduled Service. It is estimated that the proposed reporting requirement will result in a very slight increase in costs for commuters. Early in 1980, the CAB audit staff conducted a survey of commuters to determine, among other things, the marginal costs attributable to filing a balance sheet, income statement and appropriate notes on a quarterly basis. The balance sheet contained 26 asset, liability, and stockholder accounts while the income statement contained 19 income and expense accounts. Based on the survey, it was estimated that the average first year costs, including start-up costs, would be $1900 per carrier. The annual recurring costs after the first year was estimated at $1200 per carrier. Adjusting for inflation, these costs for 1986 would be estimated at $2500 and $1600, respectively.

The four income and expense data elements proposed in this rule represent a great deal less data than the CAB survey considered. The financial data are of a type generally maintained by all companies for Federal and State tax reporting as well as their own management purposes. In fact, with respect to passenger revenues, carriers are required to file with the Internal Revenue Service a quarterly excise tax return on the transportation of passengers, but such returns are confidential (26 CFR 49.6011(a)–1). Furthermore, in 1984 the CAB issued the instruction pamphlets "The Voluntary Accounting System for Small Air Carriers-Revenues and Expenses, and Balance Sheet." Carriers implementing that accounting system would already have the four data elements available. Consequently, it is estimated that the start-up and recordkeeping costs would be nominal with small recurring costs. Based on a per element cost using 1986 figures, the first year costs for a carrier would be approximately $225 with recurring costs of approximately $150 thereafter. On an industry basis, first year costs would be approximately $31,500 with $21,000 in recurring costs thereafter.

I certify that this rule will not have a significant economic impact on the scheduled passenger commuter air carrier industry.

Paperwork Reduction Act of 1980

The collection-of-information requirements in this proposal are subject to the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. Chapter 35). These requirements will be submitted to the Office of Management and Budget (OMB) for review and comment. Persons may submit comments on the information collection requirements to OMB. Comments should be directed to Sam Fairchild, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. A copy of any comments sent to OMB should also be sent to the DOT rules docket at the address noted above.

List of Subjects in 14 CFR Part 298

Air carriers, Registration, Insurance, Reporting.

Proposed Rule

Accordingly, the Department of Transportation proposes to amend 14 CFR Part 298, *Exemptions for Air Taxi Operations* as follows:

PART 298—[AMENDED]

1. The authority citation for Part 298 continues to read:

Authority: Secs. 204, 401, 407, 416, 418, 419, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766, 711; 91 Stat. 1284; 49 U.S.C. 1324, 1371, 1377, 1386, 1388.

2. Section 298.62 would be amended by revising paragraph (a) and republishing paragraph (c) to read as follows:

§ 298.62 Reporting of financial data.

(a) Each commuter air carrier and each small certificated air carrier shall file RSPA Form 298–C, Schedule F–1 "Report of Financial Data." This report shall be filed quarterly as set forth in § 298.60.

* * * * *

(c) This schedule shall be used to report financial data for the overall or system operations of the carrier. At the option of the carrier, the data may be reported in whole dollars by dropping the cents. Financial data shall be reported in the following categories:

(1) Line 1"Total Operating Revenues" shall include gross revenues accruing from services ordinarily associated with air transportation and air transportation-related services. This category shall include revenue derived from scheduled service operations, revenue derived from nonscheduled service operations, amounts of compensation paid to the carrier under section 419 of the Federal Aviation Act and other transport-related revenue such as in-flight sales, restaurant and food service (ground), rental of property or equipment, limousine service, cargo pick-up and delivery charges, and fixed-based operations involving the selling or servicing of aircraft, flying instructions, charter flights, etc.

(2) Line 2 "Total Operating Expenses" shall include expenses of a character usually and ordinarily incurred in the performance of air transportation and air transportation services. This category shall include expenses incurred: Directly in the in-flight operation of aircraft; in the holding of

aircraft and aircraft personnel in readiness for assignment to an in-flight status; on the ground in controlling and protecting the in-flight movement of aircraft; landing, handling or servicing aircraft on the ground; selling transportation; servicing and handling traffic; promoting the development of traffic; and administering operations generally. This category shall also include expenses which are specifically identifiable with the repair and upkeep of property and equipment used in the performance of air transportation, all depreciation and amortization expenses applicable to property and equipment used in providing air transportation services, all expenses associated with the transport-related revenues included on line 1 of this schedule, and all other expenses not specifically mentioned which are related to air transport operations. Interest expense and other nonoperating expenses attributable to financing or other activities which are extraneous to and not an integral part of air transportation or its incidental services shall not be included in this category.

(3) Line 3 "Net Income or (Loss)" shall reflect all operating and nonoperating items of profit and loss recognized during the period except for prior period adjustments.

(4) Line 4 "Passenger Revenues-Scheduled Service" shall include revenue generated from the transportation of passengers between pairs of points which are served on a regularly scheduled basis.

* * * * *

Issued in Washington, DC on April 12, 1988.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration, DOT.

Editorial Note: This form will not appear in the Code of Federal Regulations.

Exhibit A—RSPA Form 298–C, Schedule F–1

REPORT OF FINANCIAL DATA	Air Carrier (Corporate name including DBA) _____ Quarter Ended _____ 19__
Financial	
(1) Total Operating Revenues	_____
(2) Total Operating Expenses	_____
(3) Net Income	_____
(4) Passenger Revenues--Scheduled Service	_____

RSPA Form 298-C Schedule F-1

[FR Doc. 88–8444 Filed 4–18–88; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 332

[Docket No. 87N–0053]

Antiflatulent Drug Products for Over-the-Counter Human Use; Proposed Amendment of Monograph; Extension of Time for Comments

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to May 27, 1988, the period for submission of comments on the proposed amendment to the monograph for over-the-counter (OTC) antiflatulent drug products. This action responds to a request to extend the comment period.

DATE: Comments by May 27, 1988.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFN–210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 29, 1988 (53 FR 2716), FDA issued a notice of proposed rulemaking to amend the monograph for antiflatulent drug products for OTC human use. This notice of proposed rulemaking is part of the ongoing review of OTC drug products conducted by the agency. Interested persons were given until March 29, 1988, to submit comments.

One manufacturer informed the agency that information it received on certain protocol parameters for testing an ingredient in this drug class was received too late in the comment period (on March 8, 1988) for it to adequately respond before the comment period closed on March 29, 1988. The company, therefore, requested a 60-day extension of the comment period until May 27,

1988, to allow adequate time to fully evaluate the feedback information and to prepare comments to the proposed monograph amendment.

FDA has carefully considered the request and believes an extension of the time period to allow full opportunity for informed comments on the proposed monograph amendment is in the public interest. Accordingly, the period for submission of comments is extended to May 27, 1988. Comments may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 13, 1988.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-8453 Filed 4-18-88; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 357

[Docket No. 81N-0106]

Digestive Aid Drug Products for Over-the-Counter Human Use; Proposed Rulemaking; Extension of Time for Comments

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to May 27, 1988, the period for submission of comments on the proposed rulemaking to establish conditions under which over-the-counter (OTC) digestive aid drug products are generally recognized as safe and effective and not misbranded. This action responds to a request to extend the comment period.

DATE: Comments by May 27, 1988.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 29, 1988 (53 FR 2706), FDA issued a notice of proposed rulemaking to establish conditions under which digestive aid drug products for OTC human use are generally recognized as safe and effective and not misbranded. This notice of proposed rulemaking is part of the ongoing review of OTC drug products conducted by the agency. Interested persons were given until March 29, 1988, to submit comments.

One manufacturer informed the agency that information it received on certain protocol parameters for testing an ingredient in this drug class was received too late in the comment period (on March 8, 1988) for it to adequately respond before the comment period closed on March 29, 1988. The company, therefore, requested a 60-day extension of the comment period until May 27, 1988, to allow adequate time to fully evaluate the feedback information and to prepare comments to the notice of proposed rulemaking.

FDA has carefully considered the request and believes an extension of the time period to allow full opportunity for informed comments on the proposed rule is in the public interest. Accordingly, the period for submission of comments is extended to May 27, 1988. Comments may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 13, 1988.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-8450 Filed 4-18-88; 8:45 am]

BILLING CODE 4160-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-121; FCC 88-73]

Broadcast Services; Short-Spaced FM Station Assignments by Use of Directional Antennas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the adoption of provisions for non-interfering short-spaced commercial FM station assignments and expanded use of directional atenna for that purpose. FM directional antennas have been successfully used for several years, and their use in short-spaced situations may offer some licensees the opportunity to select alternative antenna sites that would enhance their broadcast coverage. This action invites comments on some specific and related issues that would allow routine authorization of short-spaced FM station facilities.

DATES: Interersted parties may file comments on or before May 27, 1988, and reply comments on or before June 27, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: This is a summary of Commission's Notice of Proposed Rule Making adopted February 25, 1988, and released March 30, 1988. The full text of this action is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. Interference among commercial FM stations on channels 221 to 300 is currently controlled by requiring that adjacent and co-channel stations be geographically separated by certain minimum distances. Two conditions are assumed in determining these distances: (1) That all stations are operating at the maximum power and antenna height permitted for their class; and (2) that transmitting antennas are omi-directional.

2. Currently, the Commission does not normally account for directional antenna characteristics in spacing FM channel allotments or station assignments. However, directional antennas are beneficial in some station assignment circumstances and are so authorized on occasion. Thus, they could be of special significance in short-spacing situations.

3. This notice proposes to permit non-interfering short-spacing of commercial FM stations and, where needed, the use of directional antenna systems for the express purpose of accomodating such short-spaced transmitter/antenna site locations. In this action, the Commission proposes to permit short-spaced facilities on the basis of prohibiting specified interfering contours from overlapping specified service contours of the various classes of protected stations and allotments. The Commission also proposes certain directional antenna radiation pattern restrictions, antenna height considerations, and certain antenna data filing requirements.

4. This is non-restricted notice and comment rule making 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, the Commission notes that adoption of these proposals will provide broadcasters with increased flexibility in selecting the most beneficial antenna site. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's compete action.

6. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the office of Management and Budget as prescribed by the Act.

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before May 27, 1988, and reply comments on or before June 27, 1988. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-8534 Filed 4-18-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 88-139; FCC 88-121]

Amateur Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This document proposes rules to create a regulatory environment that will encourage modern techniques, technology and uses of amateur radio. These rules are being proposed because advances in technology and operating practices have made the current amateur rules difficult to apply to modern communications practices. This action also will eliminate unnecessary rules, clarify certain rules and codify existing policies. The total body of the rules will be reduced by roughly 40 percent.

DATES: Comments are due on or before August 31, 1988. Reply comments are due on or before October 31, 1988.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Special Services Divison, Private Radio Bureau, (202) 632-4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, PR Docket No. 88-139, adopted March 24, 1988, and released April 13, 1988.

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 contractor, International Transcription Service (202) 857-3800, 2100 M Streets, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

I. Introduction

1. In this *Notice of Proposed Rule Making (Notice)* we propose to reorganize Part 97 of the Code of Federal Regulations, 47 CFR Part 97. This rule part governs the amateur radio services. [1] This revision is being proposed because advances in technology and changes in operating practices have made the current rules—which are based on concepts associated with telegraphy and telephony—difficult to apply to modern amateur communication practices. This *Notice* proposes rules to create a regulatory environment that will encourage modern techniques, technology and uses of amateur radio.

2. We also desire to eliminate unnecessary rules. Many rules in Part 97 are redundant; others are obsolete. Still others duplicate extensive details that are contained in other FCC rule parts and in the *International Telecommunication Union (ITU) Radio Regulations*. The deletion of these unnecessary rules together with a reorganization of the remaining rules will reduce the total body of amateur service rules by roughly 40 percent. This proceeding also provides an excellent opportunity to clarify certain rules and to codify certain existing policies that have grown in importance as modern amateur communiction practices have evolved. It is also a timely opportunity to clarify the terminology used in the rules.

3. We wish to recognize and encourage the experimental nature of the amateur service. It is appropriate to avoid, to the extent possible, placing in the rules detailed regulations and specifications for the configuration and operation of various amateur communications systems. Such regulations and specifications would reduce the flexibility that is a hallmark of a service free to branch out and follow an infinite number of paths. A basic amateur service license document encompasses both an operator license and a station license. Our regulatory approach is to state the basic requirements that each amateur operator and station must observe. This enables amateur operators to utilize their individual stations in creating and pioneering communication systems that are limited only by their personal interests, imagination and technical skills.

II. Background

4. Part 97 last underwent a major restructuring in 1951,[2] at a time when most communication systems in the amateur service utilized high frequency, hand keyed telegraphy and amplitude modulated telephony. Over the years a host of new technologies emerged and became popular in the amateur service:

[1] The services consist of the amateur service, the amateur-satellite service and the radio amateur civil emergency service (RACES). Of the three, the amateur service and the amateur-satellite service are recognized internationally. RACES exists only in the United States.

[2] *See Report and Order*, Docket 9295, 42 FCC 198 (1951).

single-sideband and frequency modulated telephony, very-high and ultra-high frequency repeaters, radioteleprinting, satellite transponders, digital communications, television, etc. Rule additions and revisions to accommodate these technologies have been adopted as needed. The result is a patchwork of rules that can be confusing, particularly to prospective licensees.[3]

5. The desire and ability in the amateur community to assimilate and apply new technology has led to the development of new uses of amateur stations in communication systems.[4] The result has been to alter dramatically the landscape of amateur radio regulation. Amateur operators continue to find new ways to utilize their stations in communication systems, particularly for serving the public during communication emergency situations. Moreover, enabling legislation [5] has made it possible for the FCC to accept the voluntary services of amateur operators in performing functions formerly done by FCC staff. Amateurs serving as volunteer examiners (VEs) prepare, administer and coordinate operator license examinations. Amateur operators also assist our Field Operations Bureau with monitoring functions. These trends will continue. Therefore, it is necessary and timely to reorganize and clarify the rules in recognition of these advancements and to lay the framework upon which future advancements can be incorporated.

III. Proposal

6. Our starting point for reorgnization of the rules is the definition of the amateur service. It is recognized internationally and domestically as:

> A radiocommunication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, by duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.[6]

This statement of the basis for the amateur service is fundamental to the regulations we and telecommunication regulatory agencies in other countries are to provide.[7]

7. In the United States Part 97 embodies the rules for the amateur services. It begins with a recitation of fundamental purpose, expressed in five principles in § 97.1, 47 CFR 97.1. These principles were adopted by the Commission in Docket 9295 (see paragraph 4 above) as a prospectus of the accomplishments expected to result from the activities of a healthy radio service functioning within the rules shaped toward this end. Section 97.1 stands as a general statement of objectives for the amateur service in the United States, and is continued and emphasized in the proposed rules.

8. We propose to restructure Part 97 into six subparts and four appendices as shown in the Appendix. Subpart A, General Provisions, contains those rules concerned principally with license and station location requirements. Subpart B, Fundamental Purposes of the Amateur Service, organizes appropriate rules into groupings relating to the five principles of purpose expressed in § 97.1: serving the public, advancing the radio art, advancing skills, training operators and enhancing international goodwill. Subpart C, Station Operation Standards, is comprised of those standards that generally apply to all types of amateur station operation. Subpart D, Special Operations, contains the requirements that apply only to non-standard operations such as beacons and repeaters, the amateur-satellite service and the RACES. The remaining technical standards are organized in Subpart E, Technical Standards. The requirements for the preparation and administration of operator examinations are in Subpart F, Qualifying Examination Systems. Appendix 1 lists the geographic areas where the amateur service is regulated by the Commission. Appendix 2 lists volunteer-examiner coordinator (VEC) regions. Appendix 3 is a glossary of terms used in the proposed rules. Appendix 4 is summary of the frequency sharing requirements for the amateur radio services stated in §§ 2.105 and 2.106, 47 CFR 2.105 and 2.106.

9. In addition to the glossary of terms in Appendix 3, we define terms where they first appear in the rules. Each term requiring definition is italicized when first used, followed by the parenthetical definition. For consistency in references to frequencies, the following terminology is used: frequency range (VHF, UHF, etc.), wavelength band (10 m, 70 cm, etc.), frequency segment (50.1–51.0 MHz, etc.), channel and frequency. Standard symbols for technical units are used throughout (dB, W, etc.).

10. We believe this format will make the rules easier to use and understand. We shall discuss each new subpart in detail.

A. New Subparts

11. *Subpart A—General Provisions.* In this subpart, we assembled those rules that are basically concerned with license requirements and limitations on station location. The statement of the five principles of purpose remain as § 97.1. We brought together into proposed § 97.3 the definition of the three radio services governed by Part 97. The rules that establish the various types of operator and station authorizations, together with the application and procedural requirements, are contained in this subpart. Limitations on the location of an amateur station and on the height of an antenna and its associated support structure are also incorporated. Additionally, § 97.9 defines the various classes of amateur operator licenses.

12. Section 97.11 includes rules for stations aboard ships or aircraft. We propose to delete current § 97.101(c), 47 CFR 97.101(c), requiring that the electrical installation of an amateur station aboard ship or aircraft be in accord with other government rules. This is redundant. However, to promote safe aircraft operations during adverse weather conditions, we would add language providing that amateur equipment shall not be operated while any aircraft is operating under Instrument Flight Rules unless the equipment has been found to comply with all Federal Aviation Administration rules. Also, we propose to clarify that the use of a common antenna in voluntary ship radio installations does not violate the rule requiring that an amateur station must be separate from and independent of all other radio apparatus installed on the same ship.

13. In § 97.13(b) we state clearly that amateur stations in close proximity to Commission field monitoring facilities must protect these facilities from harmful interference. The Engineer-in-Charge of the local field office may impose operating restrictions on any amateur station failing to protect Commission monitoring facilities from harmful interference.

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[3] Understanding of our rules is a requirement for an amateur operator license. A significant percentage of the questions that must be answered in each written examination is based upon our rules.

[4] For example, amateur operators in the United States and Canada operate a system of some 12,000 repeater stations.

[5] Public Law 97–259, 96 Stat. 1087 (codified in pertinent part at 47 U.S.C. 154(f)(4) (1982)).

[6] *See* No. 53 of the *ITU Radio Regulations* (Geneva, 1979). *See also* 47 U.S.C. 153(q).

[7] The basis and purpose of RACES is to provide for civil defense communications by amateur stations, particularly during an emergency that necessitates invoking of the President's War Emergency Powers under section 706 of the Communications Act of 1934, as amended, 47 U.S.C. 606.

14. In § 97.25 we update the procedural rules relating to Commission modification of an amateur station license. These rules are governed by section 316 of the Communications Act of 1934, as amended, 47 U.S.C. 316. This section of the Act was amended by Pub. L. 98-214, 97 Stat. 1467 (1983). Proposed § 97.25 conforms to the provisions of 47 U.S.C. 316.

15. Current § 97.95, 47 CFR 97.95, specifies rules for amateur station operation away from the licensed fixed station location. The original concept of a fixed station location revolved around an amateur operator's "ham shack"—a room or small building where the station's transmitting and receiving devices were located. More often than not, these devices were built by the amateur operator, and, because of the state of technology at that time, incorporated delicate and bulky components including vacuum tubes, transformers and capacitors that made the devices not very portable. Today's amateur stations often employ commercially manufactured equipment. In the age of the microprocessor and the integrated circuit this equipment is highly portable. It is common for amateur operators to carry hand-held transceivers capable of accessing many local repeaters in urban areas and also capable of reasonably good line-of-sight communication. It appears that the concept of fixed station operation no longer carries with it the same connotation it did previously. For this reason, we propose to delete current rules that relate to station operation away from the authorized fixed station location.

16. *Subpart B—Fundamental Purposes of the Amateur Service.* In this subpart, we use each one of five principles of purpose discussed in paragraph 7 above, as a subheading for the rules related to that principle.

17. *Serving the Public.* Under the first heading, serving the public, the existing provisions in the rules and the special provisions in the ITU *Radio Regulations* pertaining to providing communications during emergencies are stated. These specifically include assisting in meeting essential communication needs when normal communications systems are overloaded, damaged or disrupted because of a natural disaster.[8] We have included the general international provision for assisting stations in distress.[9] We have also included our existing policy that it is permissible for an amateur station to provide communications for public gatherings if the public is the main beneficiary. The proposed rules provide additional clarity in defining permitted operations consistent with providing operating flexibility.

18. *Advancing the Radio Art.* Under the second heading in Subpart B, advancing the radio art, are the emission types authorized for the various frequency bands and segments. It is our intent that amateur operators in the United States be allowed to experiment with the full range of modulation types. However, in order to comply with international regulations, we are obligated to limit the interference potential of amateur stations, especially those transmitting in frequency bands shared with other services.

19. The principal use of emission designators in regulations for the amateur service is to relegate the transmission of certain inharmonious emission types to different segments of the frequency bands. Originally, emission designators were generally used to reserve a segment of a frequency band for telegraphy transmissions. Although the remainder of each frequency band could be used for either telegraphy or telephony transmissions, as a practical matter it was regarded as the telephony subband. As the amateur service has developed, other specific emission types have been authorized in somewhat piecemeal fashion.

20. Authorized emissions became even more confusing when the Commission's Rules were revised to incorporate the system of designators adopted in the Final Acts of the 1979 WARC.[10] Almost 1300 designators replaced the previus system of 14 designators used in Part 97. The greater specificity had the unintended effect of restricting previously permitted operations. We propose to remedy this with a much simpler system using terminology that is already familiar to most amateur operators.[11] This approach should eliminate the inadvertently imposed restrictions while continuing necessary emission type segregation. Additionally, the designators would be unambiguous and easy to understand, even for prospective Novice operators. The multitude of designators are categorized under the following nine terms and cross referenced to Part 2 of the Rules [12].

1. *CW*—Single-channel amplitude-shift-keyed telegraphy emissions in international Morse code for aural or automatic reception.

2. *MCW*—Single-channel modulated tone telegraphy emissions in international Morse code for aural or automatic reception.

3. *Phone*—Telephony emissions.

4. *Image*—Single-channel emissions for facsimile and television.

5. *RTTY*—Single-channel emissions for narrowband direct-printing.

6. *Data*—Data emissions, including packet radio.

7. *Pulse*—Pulse emissions.

8. *SS*—Spread-spectrum emissions.

9. *Test*—Emissions containing no modulation or no information for on-the-air transmitter adjustment, two-tone amplifier linearity testing, antenna measurements, direction finding, ranging, etc.

21. Certain rule provisions for digital and spread-spectrum transmissions currently include exceptions to permit international use if special arrangements are made between the United States and the administration of any other country concerned. We propose to delete these exceptions. No such arrangements currently exist. Should the United States ever make such arrangements, we will provide public notice as we currently do for international third-party traffic and reciprocal arrangements.

22. *Advancing Skills.* Today's society is increasingly electronics-oriented. Maintenance of a pool of persons knowledgeable in electronics and innovative communications technology is clearly in the public interest.[13] There is a critical shortage of personnel skilled in the electronic arts and sciences. Yet there is a close vocational and avocational relationship between electronic competency and the skills and techniques of amateur radio.[14] Amateur radio is the only national reserve of trained communicator/technicians.[15]

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[8] *See* Resolution No. 640, ITU *Radio Regulations* (Geneva, 1979).

[9] *See* No. 347 of the ITU *Radio Regulations* (Geneva, 1979).

[10] See *Third Report and Order*, General Docket No. 80-739, 49 FR 48694 (184).

[11] P. Rinaldo, *A Working Paper on Designation of Emissions in the Amateur Service*, (1987).

[12] The descriptions following each term in this text are for informational purposes only and are not complete. For a complete definition of each proposed emission descriptor see the proposed rules.

[13] *Comments of the Capitol Hill Amateur Radio Society*, in response to the Notice of Proposed Rule Making in PR Docket No. 83-28, 48 FR 4855 (1983).

[14] *Comments of the Emerson Electric Amateur Radio Club*, in response to the *Notice of Proposed Rule Making* in PR Docket No. 83-28, 48 FR 4855 (1983).

[15] *Comments of the American Radio Relay League, Inc.*, in response to the *Notice of Proposed Rule Making* in PR Docket No. 83-28, 48 FR 4855 (1983).

For this reason, it is in the public interest, convenience and necessity to maintain and enlarge the pool of amateur operators. Our primary tool to achieve this end is in providing the motivation to upgrade class of license through increased privileges to each higher operator license class.

23. The incentive licensing structure was established to assure that amateur operators enhance their skills as they remain in the amateur service. *See Report and Order,* Docket 15928, 32 FR 12682 (1967). In the past ten years, we have seen the highest of the five amateur operator classes, Amateur Extra, more than double from 18,794 amateur operators as of January 31, 1978, to 43,902 amateur operators as of December 31, 1987. The proportion of licensed amateur operators that are Amateur Extra has almost doubled as well. As of January 31, 1978, 5.68% of all amateur operators were Amateur Extra. As of December 31, 1987, that figure had risen to 10.12%.

24. To help clarify the privileges associated with each operator class, we propose to restructure the frequency table without actually affecting amateur operator frequency privileges. We reorganized and relocated to Appendix 4 the summary of frequency sharing limitations that are specified in §§ 2.105 and 2.106, 47 CFR 2.105 and 2.106. We provide a cross-reference to these rule sections in proposed § 97.203(a) to make amateur operators aware that additional considerations in the use of a particular frequency segment may apply. We expect that annotated versions of our rules offered by publishers will continue to bring relevant frequency sharing requirements to the attention of amateur operators.

25. *Training Operators.* The fourth heading in Subpart B, training operators, incorporates operator examination requirements. These are the rules that place all amateur operators on notice of what they need to know to advance in the amateur service. Each amateur operator license conveys broad privileges to the holder. These privileges are many and they are diverse. Amateur operators are allowed to communicate using telegraphy, voice, teleprinting, packet radio, facsimile, television and other modes. They are allowed to communicate with amateur operators in other countries and, in some cases, send messages for third parties. An amateur operator is allowed to build, repair and modify amateur station transmitters. For such a flexible radio service to be practical, all amateur operators must thoroughly understand their responsibilities and have the skills necessary to operate an amateur station properly. Preparation for the various operator examinations helps operators to learn and hone the required skills. This subpart clearly defines the requirements for examinations at each skill level.

26. *International Goodwill.* The rules derived from the amateur service international communications requirements now in Appendix 2 are under the fifth heading, enhancing international goodwill. Transmissions between amateur stations of different countries are limited by international law to messages of a technical nature relating to tests and to remarkss of a personal character that are so unimportant as not to justify recourse to the public telecommunications service.[16] We noted under this heading that we issue public notice of international arrangements for the amateur service upon notification from the U.S. State Department that an exchange of notes has occurred.

27. The amateur service is the only service outside of the common carrier services where two-way communications between private individuals in different countries are permitted. Practically every country allows some form of amateur radio communications. As as result, the amateur service is a potentially strong and credible projector of a nation's image abroad. A large segment of the world's radio amateur population regularly engages in distant contacts. In these contacts, amateur operators of different nations engage in personal dialogue. The amateur operator is usually representative of his/her country at the "grass roots" level. The amateur operator talks about subjects that are of day-to-day interest to other amateur operators contacted in other countries. This one-on-one dialogue that is made possible by workwide amateur radio is an important cultural exchange.[17] International amateur communications are a basis for opinions formed of the United States worldwide. That is why one of the fundamental purposes of the amateur service in the United States is to foster international goodwill. The importance of this aspect of the amateur service is highlighted in this subpart.

28. *Alien reciprocal operating privileges.* Over the past decade we have issued approximately 130 alien reciprocal operating permits in the amateur service each month. At any given time about 1,500 of these authorizations are outstanding. Currently Subpart G of Part 97 contains the regulations for operating in accord with these permits. We propose to eliminate Subpart G in favor of conveying necessary information concerning alien operator privileges in the new Subpart B and information on obtaining an alien permit in the new Subpart A. Much of the latter information is also contained in FCC application form 610–A, *Application of Alien Amateur Radio Licensee For Permit To Operate in the United States.*

29. *Subpart C—Station Operation Standards.* In this subpart we centralize all amateur station operation standards. This subpart includes much of current Subparts D and E. We divide the amateur station operation standards into two sets. The basic standards are those common to all amateur station operations. The special operations are rules for specific types of amateur station operation.

30. *Frequency sharing.* We do not assign stations or designate transmitting frequency channels in the amateur service. Rather, we rely upon the control operator to select the station's transmitting channel from those frequencies available prior to causing or allowing the station to transmit. The frequency agility of amateur stations makes it possible for all amateur operators to cooperate in sharing all authorized amateur service frequency bands. Good amateur practice requires that the control operator monitor prospective transmitting channels and then select a channel where the station's transmissions will not cause harmful interference and will minimize incidental interference to other on-going communications. We propose to codify this concept under Subpart C with a new § 97.203 called "frequency sharing." Certain duties are inherent in any shared frequency environment—namely, cooperation in channel selection and use to prevent harmful interference and to make the most effective use of the frequencies. We propose to state these duties explicitly in the rules.

31. With the exception of frequency subbands that are currently designated in Part 97 to protect telegraphy and certain other forms of non-voice communication, the Commission and amateur operators rely upon informal arrangements within the amateur community, called voluntary band plans, to assist in achieving the goal of preventing harmful interference. It has been our experience that, consistent

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[16] *See* No. 2732 of the ITU *Radio Regulations* (Geneva, 1979).

[17] Stanford Research Institute, *Amateur Radio: An International Resource for Technological, Economic, and Sociological Development* (1966), at 61.

with good amateur practice, amateur operators adhere to these voluntary band plans with excellent results for the service. As a general proposition, we favor voluntary band plans over Commission-imposed subbands in the amateur service. Rule-mandated band plans may result in station operation inflexibility and increased enforcement and regulatory burdens.

32. *Station licensee responsibilities.* In proposed § 97.205, the responsibilities of an amateur station licensee are stated. Section 97.205(c) clarifies Commission authority to inspect amateur stations. This authority is currently spread among three separate rules addressing authorized apparatus and amateur station and operator licenses. *See* 47 CFR 97.81(b), 97.82 and 97.83. The new rule would unify Commission inspection authority contained in these rules and clarify current Commission policy that the amateur station, including station records, is subject to inspection by Commission personnel.

33. *Control operator duties.* In proposed § 97.207, the duties of a licensed station control operator are stated. By making decisions about equipment suitability, frequency selection, emission modes, message content, etc., the control operator is the key to proper operation of an amateur station. Without the control operator, unidentified and unauthorized uses of the frequencies are possible. Should this occur, the legitimacy of the service is imperiled.[18] Section 97.209 defines control point. Section 97.211 addresses specific forms of station control. In § 97.211(c) we propose to clarify our authority to require any station under automatic control to discontinue operation upon notification from the Engineer-in-Charge of a Commission field office that the station is transmitting improperly or causing harmful interference to other stations.

34. *Points of communication and permissible one-way communications.* We are expanding and clarifying the rules relating to points of communication and permissible one-way communications. This includes the blanket waiver for the retransmission of space shuttle communications authorized by the Chief, Private Radio Bureau, on September 6, 1983.[19] In proposed § 97.217, we simplify the rules concerning station identification procedures. In § 97.217(b)(4) we make provisions for amateur stations transmitting television to perform the station identification procedure using our color broadcast standards as well as monochrome. We also add § 97.217(g) to provide for a self-assigned identifier to be appended to a station call sign in the identification procedure. Such an identifier can be useful to the station as an efficient means of announcing the fact that the station is participating in a contest or a special event. Additionally, we specifically incorporate in the rules the basic premise that the amateur service has its own objectives and is not intended to be used as an alternative to other radio services or communications facilities.[20]

35. *Swap nets.* Business communications are prohibited in the amateur service. *See* 47 CFR 97.110. We relocated this prohibition in proposed § 97.219(c). We added the exception that communications to inform other amateur operators of the availability of, or the need for, amateur station apparatus are not considered to be business communications. This type of communication is usually found in the context of "swap nets." A swap net is a series of communications between two or more amateur stations conducted for the purpose of buying and selling amateur equipment.

36. Current policy permits amateur stations to transmit information about the availability of amatuer radio equipment, notwithstanding § 97.110, 47 CFR 97.110, prohibiting business communications. In this context, amateur radio equipment is equipment normally used in an amateur station by an amateur operator. An asking price may be mentioned, but no subsequent negotiations or bartering may take place. If interest is expressed, the amateur operators should exchange mailing addresses or telephone numbers and finish negotiations using means of communication other than amateur service frequencies. Dealers may not take advantage of this exception. Amateur operators who derive a profit by buying and selling amateur radio equipment on a regular basis are considered dealers and violate the business prohibition if they use amateur service frequencies for this purpose. Proposed § 97.219(c) codifies these policies.

37. *Broadcast-related activities.* Questions frequently arise concerning the amateur service and broadcast-related activities. Broadcasting and broadcast-related activities are prohibited in the amateur service. *See* 47 CFR 97.113. An amateur station may not be used for any activity directly related to program production or newsgathering for broadcast purposes. However, in 1985 and 1986 we indicated in the texts of orders relating to amateur and broadcast services that we would permit amateur to convey news information in certain limited and unique circumstances. Those circumstances are if: (1) The event is unforeseen; (2) the news information is directly related to the event; (3) the event involves the safety of human life or the immediate protection of property; and (4) the news information cannot be transmitted by any means other than amateur radio because of the remote location of the originating transmission or because normal communications have been disrupted.[21] We propose to incorporate this policy in § 97.219(f).

38. *Quiet hours.* We propose to remove certain specific time periods for the imposition of restrictions against amateur station transmissions in § 97.131(a), 97.133 and 97.135, 47 CFR 97.131(a), 97.133 and 97.135. Their purpose is to protect the domestic broadcast service from harmful interference. We believe that the necessary authority is contained in current § 97.131(b), 47 CFR 97.131(b). We have recodified this rule as proposed § 97.221, which states that the Commission may restrict operations of amateur stations as necessary to prevent harmful interference.

39. *Damage to equipment.* We propose to remove current § 97.127, 47 CFR 97.127, prohibiting a licensed amateur operator from damaging any radio apparatus or installation is any licensed station. This rule inherently involves an overlap of Federal and local jurisdiction. The underlying facts of such a violation would also necessarily constitute vandalism. We often receive complaints from people whose equipment was damaged seeking help based upon this rule. Complaints in the first instance in such a circumstance should be directed to local law enforcement authorities, who are in a position to provide some immediate assistance. Removal of this rule would not in any way diminish our authority to suspend an amateur operator license for such conduct. *See* 47 U.S.C. 303(m)(1)(C).

40. *Notices of violation.* Finally, we remove rules that specify what an amatuer station licensee must do upon receipt of a notice of violation. Such rules are unnecessary. The correspondence itself specifies what is required, and clearly states any

[18] *See Memorandum Opinion and Order.* PR Docket No. 85-105, 1 FCC Rcd 166 (1986).

[19] *See Order.* Mimeo Number 6366 (1983).

[20] *See Order.* FCC 83-298, adopted June 29, 1983.

[21] *See Report and Order.* BC Docket No. 79-47, 101 FCC 2d 32 (1985) at paragraph 22, *aff'd Memorandum Opinion and Order.* 103 FCC 2d 917 (1986), at paragraph 8.

penalties that may result from failure to respond or comply.

41. *Subpart D—Special Operations.* In this subpart we assemble present and proposed provisions for those particular types of amateur operations that require special explanations or limitations. We propose to include auxiliary, beacon and repeater operations, remote control of amateur stations and model craft, and amateur-satellite and RACES operations in this subpart.

42. *Auxiliary operation.* We propose to delete the provisions of current § 97.86(b), 47 CFR 97.86(b). This rule was intended to facilitate so-called "split-site-repeaters," where an auxiliary link is used to relay signals received at a distant receiving site to the station in repeater operation. It appears this provision is unnecessary. No amateur service rule prohibits such a practice.

43. *Beacon operation.* We conformed the minimum interval for an amateur station in beacon operation to perform the station identification procedure to the interval for all other forms of amateur station operation—once every 10 minutes.

44. *Remote control.* In some cases, particularly in instances where an amateur station is situated on a hilltop or atop a tall building, it is neither desirable nor practical to have the control operator physically present at the transmitter site. The control operator may perform the necessary duties from a remote control point through a control link. This control link can be a dedicated wire line or public telephone interconnection from the control point to the remotely controlled station. Alternatively, an amateur station in auxiliary operation at the control point can be used to transmit control commands to the remotely controlled station. *See* 47 CFR 97.88 (radio remote control of an amateur station). We redrafted this rule as proposed § 94.307.

45. The control operator must be able to control the station from the remote control point just as effectively as at a control point physically at the station site. Should the control link fail, the remotely controlled station's transmissions must cease after no more than three minutes. Many remotely controlled amateur stations operators include a three-minute time out timer in the control circuitry in order to meet this requirement. We believe, however, that the requirement to cease transmission in three minutes may be unduly restrictive, particularly with respect to repeaters that are otherwise functioning properly. Therefore, we request comments on whether this time limit can be further relaxed, and, if so, what time limit would be appropriate. Further, we have removed the provisions of § 97.88(c), 47 CFR 97.88(c), that require the control operator of a remotely controlled amateur station to monitor continuously the station's transmitting and receiving frequencies. These provisions would no longer be necessary because of the consolidation of control operator duties in proposed § 97.207 and explicit frequency sharing requirements in proposed § 97.203.

46. *Amateur-Satellite Service.* This subpart also includes the rules that apply to the amateur-satellite service. This service epitomizes the experimental nature of the amateur radio services and the dedication and ability of amateur operators to contribute to the advancement of the radio art. It has enabled amateur operators to participate directly in space programs and has generated tremendous interest in space communications by amateur operators. OSCAR 1, the first amateur radio satellite, was launched into orbit in December, 1961. Since that time, with a series of OSCAR satellites, amateur operators have continued their efforts to experiment to achieve reliable, predictable long-distance and long-duration radio communications on HF and shorter wavelength bands. The amateur-satellite service was incorporated into the amateur service rules following its recognition in the Final Acts of the 1971 Space WARC (World Administrative Radio Conference). Today, amateur OSCAR satellites are used for real-time and delayed transmission from anywhere beyond the major portion of the earth's atmosphere. We have replaced current detailed notification of intended space operation in the amateur-satellite service by reference to the requirements in the ITU *Radio Regulations.*

47. *Subpart E—Technical Standards.* This subpart is comprised of the technical standards that must be met by amateur stations. We assembled the limitations on spurious emission under proposed § 97.401 and the limitation on maximum transmitting power under proposed § 97.403. The provisions for digital and spread spectrum communications and external radio frequency power amplifiers are also consolidated in this subpart. We eliminated the redundant requirement that stations transmitting spread spectrum take steps to protect amateur stations in repeater operation. Repeater operation is adequately protected by the control operator and frequency sharing requirements.

48. As discussed in paragraph 30 above, we do not assign specific frequency channels to amateur stations. Nor do we divide the amateur service frequency bands into specific channels of a particular bandwidth. Therefore, considering the multitude of different emission types that could be transmitted, there is no need to specify precisely the maximum bandwidth that a transmitted signal may occupy. Our primary spectrum conservation approach is to encourage the good amateur practice of each amateur station transmitting in a manner that ensures that its signals are not unnecessarily broad. To this end, proposed § 97.401 generally requires an amateur station transmission to occupy no more channel bandwidth than necessary for the information rate and emission type transmitted.

49. While proposed § 97.405 for digital communications is under this subpart, as a practical matter most of the relevant information about availability of particular channels for certain types of digital communications would be contained in proposed § 97.131 (authorized emission types). We currently authorize certain standard digital communications, such as baudot, ASCII and AMTOR, that use personal computers or teleprinting machines with alphanumeric keyboards.[22]

50. We also permit the transmission of experimental digital codes on the 6 meter and shorter wave length bands in the amateur services. Amateur operators have taken advantage of this provision to be innovative in the area of digital transmissions. Packet radio is a currently burgeoning digital communications field. Packets are individual short bursts of digitally encoded data that take only milliseconds to send. Packet radio employs the time sharing capabilities of digital technology to conserve spectrum. The proposed rules provide flexibility to encourage continued development of efficient digital codes.

51. *Subpart F—Qualifying Examination Systems.* This subpart centralizes the rules concerning the preparation, administration and coordination of amateur operator examinations. The Commission prepared, administered and coordinated examinations for Technician, General, Advanced and Amateur Extra Class operator licenses until the VEC system became fully operational in 1984. On December 1, 1983, final rules went into effect pursuant to Pub. L. 97-259, 96 Stat. 1087 (1982), that authorized the

[22] Baudot (also called Murray or International Telegraphy Alphabet No. 2) is the five-character binary code widely used for RTTY transmissions. ASCII is seven-character binary code also used for RTTY transmissions. AMTOR is an error correcting digital teleprinter code.

Commission to accept and employ the voluntary and uncompensated services of amateur operators in the preparation and administration of amateur operator examinations. *See Report and Order*, PR Docket No. 83–27, 48 FR 45653 (1983). Subsequently, the Communications Act was further amended to allow limited reimbursement of out-of-pocket costs incurred by VEs and VECs in connection with the preparation, processing or administration of examinations for amateur operator licenses. *See* Pub. L. 98–214, 97 Stat. 1467 (1983). We then adopted rules to implement this legislation. *See Report and Order*, PR Docket No. 84–265, 49 FR 30472 (1984).

52. Two volunteer examiner systems—one for the Novice Class operator license and one for all other operator class licenses—are now in place. All rules relating to the way in which VEs must conduct the preparation and administration of amateur operator examinations are under the heading of operator license examinations. All rules relating to the way in which volunteer-examiner coordinators (VECs) must coordinate amateur operator examinations are under the heading of volunteer-examiner coordinators. A final separate heading covers examination expense reimbursement. Additionally, we deleted the references to disposition and retention of examination papers in § 97.26(f), 97.27(d) and 97.28(h), 47 CFR 97.26(f), 97.27(d) and 97.28(h). The rules should not hamper the increasing use of personal computers in administering paperless examinations.

53. *Appendices.* We removed the current appendices to Part 97. Classification of emissions, now in Appendix 3, would be replaced by the system proposed in Subpart B. The other appendices are extracts or excerpts from international treaties and conventions. To the extent required, they are directly incorporated into the proposed rules. Four new appendices would be added. New Appendix 1 lists the geographic areas where the amateur service is regulated by the Commission. New Appendix 2 specifies the VEC regions currently listed in § 97.507(b), 47 CFR 97.507(b). New Appendix 3 is a glossary index, listing the locations throughout the rules where terms are defined. New Appendix 4 is a summary of the sharing requirements currently listed in § 97.7(g), 47 CFR 97.7(g).

IV. Conclusion

54. This reorganization of the rules achieves the objectives we delineated at paragraphs 2 through 8 above. We seek comments on the proposed rules, and we urge interested parties to recommend additional consolidations, clarifications and reductions in regulatory burdens. We also seek the comments of publishers and distributors of commercial versions of Part 97. Accordingly, we propose to revise Part 97 to modify, clarify and update the amateur radio services rules, as set forth in Appendix A. Cross reference lists for the current and proposed rules are set forth in Appendices B and C.[23]

55. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* presentations are permitted except during the Sunshine Agenda period. *See generally* 47 CFR 1.1206(a). The Sunshine Agenda period is the period of time which commences with the release of a public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases the text of a decision or order in the matter; (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. 47 CFR 1.202(f). During the Sunshine Agenda period, no presentations, *ex parte* or otherwise, are permitted unless specifically requested by Commission or staff for the clarification or adduction of evidence or the resolution of issues in the proceeding. 47 CFR 1.1203.

56. In general, an *ex parte* presentation is any presentation directed to the merits or outcome of the proceeding made to decisionmaking personnel which (1) if written, is not served on the parties to the proceeding, or (2), if oral, is made without advance notice to the parties to the proceeding and without opportunity for them to be present. 47 CFR 1.1202(b). Any person who submits a written *ex parte* presentation must provide on the same day it is submitted a copy of same to the Commission's secretary for inclusion in the public record. Any person who makes an oral *ex parte* presentation that presents data or arguments not already reflected in that person's previously-filed written comments, memoranda, or filings in the proceeding must provide on the day of the oral presentation a written memorandum to the Secretary (with a copy to the Commissioner or staff member involved) which summarizes the data and arguments. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. 47 CFR 1.1206.

57. Authority for issuance of this *Notice* is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before August 31, 1988 and reply comments on or before October 31, 1988. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

58. In accordance with section 605 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, the Commission certifies that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities, because these entities may not use the amateur radio services for commercial radiocommunication. See 47 CFR 97.3(b). Moreover, the proposed rules would not require the use of or significantly enhance the sale of any additional amateur radio service apparatus.

59. 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 record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

60. *It is ordered*, That the Secretary shall cause a copy of this *Notice* to be served upon the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88–8533 Filed 4–18–88; 8:45 am]

BILLING CODE 6712–01–M

[23] Appendices A, B and C are not attached to this Summary, but are available as part of the complete released document as described above.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Five Texas Cave Invertebrates To Be Endangered Species

AGENCY: Fish and Wildlife Service Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status under the authority of the Endangered Species Act of 1973, as amended, for five species of cave-dwelling, invertebrate animals in Texas. The five species are the Tooth Cave pseudoscorpion (*Microcreagris texana*), the Tooth Cave spider (*Leptoneta myopica*), the Bee Creek Cave harvestman (*Texella reddelli*), the Tooth Cave ground beetle (*Rhadine persephone*), and the Kretschmarr Cave mold beetle (*Texamaurops reddelli*). Each of these species is known from only six or fewer small, shallow, dry caves near Austin in Travis and Williamson Counties, Texas. Urban, industrial, and highway expansion are planned or ongoing in the area containing the cave habitat of these species. This development could result in filling or collapse of those shallow caves, disturbances of water drainage patterns that affect cave habitat, introduction of exotic competitive and predatory insects and other organisms, and pollution of the cave systems with pesticides, fertilizers, oils, and other harmful substances. A final determination that these five species are endangered would implement for them the protections provided by the Endangered Species Act. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by June 20, 1988. Public hearing requests must be received by June 3, 1988.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold Avenue SW., Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Steven M. Chambers, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service Regional Office, Albuquerque, New Mexico (See **ADDRESSES** above) (505/766-3972 of FTS 474-34972).

SUPPLEMENTARY INFORMATION:

Background

The Tooth Cave pseudoscorpion, *Microcreagris texana* (family Neobisiidae), was first described by Muchmore (1969) from a specimen collected in Tooth Cave, Travis County, by James Reddell in 1965. It reaches a lenght of about 4 millimeters (mm) (about 3/16 inch) and resembles a tiny, tailless scorpion. Pseudoscorpions lack a stinger and are harmless to humans. They use their pincers to prey on small insects and other arthropods. The Tooth Cave pseudoscorpion is eyeless and troglobitic (lives only in caves). It is known only from Tooth and Amber Caves, both in Travis County, Texas.

The Tooth Cave spider, *Leptoneta myopica* (family Leptonetidae), was first collected by James Reddell in 1963, and later described by Gertsch (1974). It has been found only in Tooth Cave, Travis County Texas. This spider is very small, up to 1.6 mm (about 1/16 inch) in total length, pale-colored, and has relatively long legs. It is a troglobite, although reduced eyes are present. The Tooth Cave spider is sedentary and spins webs from the ceiling and walls of Tooth Cave.

The Bee Creek Cave harvestman, *Texella reddelli* (family Phalangodidae), was first described by Goodnight and Goodnight (1967) from a specimen collected by James Reddell and David McKenzie from Bee Creek Cave (erroneously reported as "Pine Creek Cave"), Travis County. This light yellowish-brown harvestman has relatively long legs that extend from a small body (2 mm, or less than 1/8 inch, in length). It is an eyeless troglobite and is probably predatory. The Bee Creek Cave harvestman lives in Tooth, Bee Creek, McDonald, Weldon, and Bone Caves in Travis and Williamson Counties, Texas. The *Texella* reported by Reddell (1984) from Root Cave, Travis County, may also be this species.

The Tooth Cave ground beetle, *Rhadine persephone* (family Carabidae), was first described by Barr (1974) from specimens collected in the Tooth Cave by W.M. Andrews, R.W. Mitchell, and T.C. Barr in 1965. This species is a small (7–8 mm or about 5/16 inch in length), reddish-brown beetle. It is troglobitic and has only rudimentary eyes. It probably feeds on cave cricket eggs, which have been determined to be a major food of another troglobite species of *Rhadine* (Mitchell 1968). The Tooth Cave ground beetle is known only from Tooth and Kretschmarr Caves, Travis County, Texas.

The Kretschmarr Cave mold beetle, *Texamaurops reddelli*, was first described by Barr and Steeves (1963) from a specimen collected in Kretschmarr Cave by James R. Reddell and David McKenzie in 1963. This species is a very small (less than 3 mm, or about 1/8 inch, in length) dark-colored, short-winged, beetle with elongated legs. This member of the family Pselaphidae is an eyeless troglobite and is known only from Kretschmarr, Amber, Tooth, and Coffin Caves in Travis and Williamson Counties, Texas.

The caves inhabited by these five species are relatively small. The largest, McDonald Cave, consists of less than 60 meters (m) (about 200 feet) of passage, and most of the others are considerably smaller. These caves occur in isolated "islands" of the Edwards Limestone formation that were separated from one another when stream channels cut through the overlying limestone to lower rock layers. This fragmentation of habitat has resulted in the isolation of groups of caves that have developed their own, highly localized faunas.

In addition to the five species that are the subject of this proposal, these caves and others in the area support a number of other uncommon and scientifically significant species. Available habitat of this type is very limited, and many of these caves have been lost or are threatened with imminent loss.

The Service was first notified of the possible status of these five species by an August 20, 1984, letter from the Travis Audubon Society, Austin, Texas. The Conservation Committee of the Travis Audubon Society then petitioned the Service on February 8, 1985, to list these five and one other species (the Tooth Cave rove beetle, *Cylindropsis* sp.) as endangered. The Service evaluated this petition and on May 1, 1985, found that the petition did present substantial information indicating that the requested action may be warranted. A notice of that finding was published in the **Federal Register** on July 18, 1985 (50 FR 29238). On February 19, 1986, the Service found that the petitioned action was warranted but that such action was precluded by work on other pending proposals, in accordance with section 4(b)(3)(ii) of the Act. A notice of that finding was published on August 20, 1986 (51 FR 29672). On July 1, 1987 (52 FR 24487), the Service published a notice that the petitioned action was again warranted but precluded for the five species addressed in the present proposed rule. That same notice also announced the finding that listing was not warranted for the sixth species named in the petition, the Tooth Cave

blind rove beetle (*Cylindropsis* sp.). This conclusion was based on the determination that the single known specimen was in such poor condition that it could not provide adequate material for taxonomic evaluation and description; furthermore, the best available scientific information indicates that the taxon it represents is extinct.

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 the Tooth Cave pseudoscorption (*Microcreagris texana*), Tooth Cave spider (*Leptoneta myopica*), Bee Creek Cave harvestman (*Texella reddelli*), Tooth Cave ground beetle (*Rhadine persephone*), and Kretschmarr Cave mold beetle (Texamaurops reddelli) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The primary threat to the five species comes from potential loss of habitat owing to anticipated development activities. Proximity of the caves inhabited by these species to the City of Austin makes them vulnerable to the continuing expansion of the Austin metropolitan area. Road, industrial, residential, and commercial developments that would adversely affect these species have already been proposed. Tooth, Amber, Kretschmarr, Kretschmarr Salamander, McDonald, and Root Caves are in an area for which a major residential, commercial, and industrial development has been proposed. This area includes the entire known ranges of the Tooth Cave pseudoscorption, the Tooth Cave spider, and the Tooth Cave ground beetle, all but one known locality of the Kretschmarr Cave mold beetle, and a large portion of the habitat of the Bee Creek Cave harvestman. Unless proper safeguards can be devised, this development could result in the filling in or collapsing of caves during road and building site preparation, and in alteration of drainage patterns that could affect the cave habitat. These species inhabit dry cave habitats that depend on some infiltration of groundwater. Disruption of this input would be harmful, as would excess input of water that would flood the caves. Flooding of habitat could also result from proposed no-discharge sewage effluent irrigation. Development of this area could also increase the flow of sediment, pesticides, fertilizers, and general urban runoff into the caves. Land alterations in this area have already been noted (Reddell 1984). Landmarks have been altered so that it is difficult to relocate some caves, and large boulders have been placed in the entrance of Kretschmarr Cave on two occasions (Reddell 1984). This cave is an important habitat for the beetles included in this proposal. Development in this area is also likely to increase human visitation and vandalism in the caves, which are so small that even occasional episodes could adversely alter the cave habitat.

Tooth Cave is near one alternative route for a proposed water pipeline from Lake Travis. Even if it is bypassed by the direct path of the pipeline, operation of heavy construction equipment or blasting could adversely affect Tooth Cave and other caves in the area inhabited by these species.

Weldon Cave, which supports a population of the Bee Creek Cave harvestman, is in or very near the path of a proposed road extension. Residential development is also occurring in this area, and is likely to be stimulated by the improved access provided by this road.

It is likely that most, if not all, or the five cave species occupied other caves that have already been lost to earlier development. This may have been the fate of Coffin Cave, which is historic habitat of the Tooth Cave mold beetle. Recent attempts to relocate this cave have not been successful.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

No threat from overutilization of these species is known to exist at this time. Collection for scientific or educational purposes could become a threat if localities become generally known.

C. Disease or Predation

As the human population of the area around these caves increases, the problems of predation by and competition with exotic (non-native) species also increases. Human habitation introduces a complement of exotic invertebrate species into many areas, particularly in semiarid areas such as the plateau northwest of Austin. These predatory species are transported into the area in various accompaniments of human occupation, including landscaping plants. Buildings, lawns, and shrubbery provide habitat from which these highly adaptable species can disperse. The relative accessibility of the shallow caves leaves them especially vulnerable to invasion by introduced invertebrate predators or competitors such as sowbugs and cockroaches.

D. The Inadequacy of Existing Regulatory Mechanisms

There are currently no laws that protect any of these species or that directly address protection of their habitat. Cave protection laws of the City of Austin do not apply because these areas are all outside the city limits.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

These species are extremely vulnerable to losses because of their severely limited range and habitat and because of the naturally limited ability to colonize new habitats. These troglobitic species have little or no ability to move appreciable distances on the surface. The division of the limestone habitat into "islands" limits the mobility of the species through channels within the limestone. Moisture regimes, food supply, and other factors may also limit subsurface migrations and may account for the different distribution patterns seen among these five species.

The specific climate factors within the caves, such as humidity, are affected by input through the cave entrance, the overlying soils, and the rocks in which the caves are formed. As discussed under factor A above, surface alterations can affect these conditions, as well as facilitate the flow of pollutants into the habitat.

The very small size of these habitats, in addition to the fragile nature of cave ecosystems in general, make these species vulnerable to even isolated acts of vandalism. As the human population of the area increases, the likelihood of such acts also increases.

The Service has carefully 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 the Tooth Cave pseudoscorpion, the Tooth Cave spider, the Bee Creek Cave harvestman, the Tooth Cave ground bettle, and the Kretschmarr Cave mold beetle as endangered species. These species require the maximum possible protection provided by the Act because their extremely small, vulnerable, and

limited habitats are within an area that can be expected to experience continuing pressures from economic and population growth. Critical habitat has not been proposed for reasons given in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for these species at this time. Their cave habitats are at the edge of an expanding urban area with a growing population. Increased human population density increases the likelihood of acts of vandalism that could irreversibly damage the caves. All involved parties and land owners will be notified of the location and importance of protecting these species' habitats. Protection of these habitats 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 and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. 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. No Federal involvement has been identified at this time. As development progresses the Federal Housing Authority, the Federal Highway Administration, and the Environmental Protection Agency may become involved in funding or permitting projects. Any involvement by these Federal agencies in development in the area of these caves could be a subject of consultation with the Service.

The Act and implementing regulation found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

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 regulations 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 final regulations that differ from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Regional Director (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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Mitchell, R.W. 1968. Food and feeding habits of the troglobitic carabid beetle *Rhadine subterranea*. International Journal of Speleology 3:249–270.

Muchmore, W.B. 1969. New species and records of cavernicolous pseudoscorpions of the genus *Microcreagris* (Arachnida, Chelonethida, Neobisiidae, Ideobisiinae). American Museum Novitates No. 2932. 21 pp.

Reddell, J.R. 1984. Report on the Caves and Cave Fauna of the Parke, Travis County, Texas. Unpublished report to the Texas System of Natural Laboratories. 25 pp.

Author

The primary author of this proposed rule is Dr. Steven M. Chambers, Fish and Wildlife Biologist, Office of Endangered Species, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

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:

PART 17—[AMENDED]

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.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. It is proposed to amend § 17.11(h) by establishing a new taxonomic group heading, "Arachnids", to follow the entries under "Insects" on the List of Endangered and Threatened Wildlife.

3. It is further proposed to amend § 17.11(h) by adding the following, in alphabetical order under the two indicated taxonomic group headings, to the List of Endangered and Threatened Wildlife.

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species							
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
INSECTS:							
Beetle, Kretschmarr Cave moss	*Texamaurops reddelli*	U.S.A. (TX)	NA	E		NA	NA
Beetle, Tooth Cave ground	*Rhadine persephone*	U.S.A. (TX)	NA	E		NA	NA
ARACHNIDS:							
Harvestman, Bee Creek Cave	*Texella reddelli*	U.S.A. (TX)	NA	E		NA	NA
Pseudoscorpion, Tooth Cave	*Microcreagris texana*	U.S.A. (TX)	NA	E		NA	NA
Spider, Tooth Cave	*Leptoneta myopica*	U.S.A. (TX)	NA	E		NA	NA

Dated: March 25, 1988.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–8520 Filed 4–18–88; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

[Docket No. 80468–8068]

Red Drum Fishery of the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement Amendment 2 to the Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico (FMP). This proposed rule would (1) set total allowable catch (TAC) of red drum from the primary area of the exclusive economic zone (EEZ) at zero by reducing recreational and commercial quotas to zero, thereby extending the existing prohibitions on the harvest or possession of red drum in the secondary areas to the entire Gulf of Mexico EEZ and (2) make technical corrections to the specification of the fishing year and to the allowable catch and allocation procedures. The intended effect of this rule is to protect the red drum spawning stock from overfishing.

DATE: Written comments on this proposed rule will be received until Saturday, May 21, 1988.

ADDRESS: Comments on the proposed rule and requests for copies of Amendment 2 and its associated documents should be sent to William R. Turner, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: William R. Turner, 813–893–3722.

SUPPLEMENTARY INFORMATION: The red drum fishery is managed under the FMP and its implementing regulations at 50 CFR Part 653, as provided by the Magnuson Fishery Conservation and Management Act (Magnuson Act). Amendment 1 to the FMP, prepared by the Gulf of Mexico Fishery Management Council (Council) and implemented October 16, 1987 (52 FR 34918; September 16, 1987), divided the EEZ into primary and secondary areas, prohibited the harvest or possession of red drum from the secondary areas (waters off Texas and Florida), and established an annual TAC in the primary area (waters off Louisiana, Mississippi, and Alabama). Under the TAC, annual quotas were established at zero for the directed commercial fishery, 200,000 pounds as incidental commercial catch in the shrimp fishery, 100,000 pounds as incidental catch in other commercial fisheries, and 325,000 pounds for the recreational fishery. The regulations also imposed a recreational bag limit of one red drum per person per trip in or from the primary area.

Under Amendment 1, the procedures for specification of TAC and allowable catch provide that, by October each year, NMFS' Southeast Fisheries Center (SEFC) is to prepare a stock assessment for the fishery, examining all the parameters related to the condition of the stock. A scientific stock assessment group (Group), appointed by the Council from qualified fishery scientists throughout the Gulf region, is to review the stock assessment reports and specify a range of acceptable biological catch (ABC) and the risks of adversely impacting the spawning stock biomass (SSB) associated with each harvest level within ABC. The Council then reviews the Group's report, sets TAC for the fishery, and allocates that TAC among the user groups. Under Amendment 1,

revision of the TAC and allocation levels requires amendment of the FMP.

In accordance with the management objectives of Amendment 1, the Council also requested that the States take appropriate steps within their respective geographical areas of authority to provide an escapement rate of juvenile fish to the spawning stock equivalent to 20 percent of those that would have escaped in the absence of any nearshore fishery. This level of escapement was estimated by scientists as the amount necessary to maintain the spawning stock at a level that would prevent recruitment failure and collapse of the fishery. A cooperative State/Federal management approach is essential to effective and successful management of this resource because of the interdependent relationship of nearshore and offshore stocks; juvenile red drum occur in nearshore and inshore waters, while mature adults generally occur offshore. Overfishing of either group adversely impacts the resource in both areas. Insufficient recruitment of juveniles to the offshore spawning stock results in too few spawners to replenish the population in nearshore waters.

Present Situation

SEFC's October 1987 stock assessment report indicated that the mortality rates of juvenile red drum from State waters continued to be excessively high during 1983–1986 and that the annual rate of juvenile escapement to the offshore adult stock for this period was less than two percent for all areas examined. The report also observed that length-frequency and aging studies indicated that adult red drum under 12 years of age were poorly represented in the spawning stock.

The report concluded that, given the high mortality rate associated with the fishery on juveniles, any significant increase in fishing mortality on adults would likely endanger recruitment inshore. This results from both the lowering of the number of spawners and the compression of the age distribution of spawners into the first few reproductive years. The report concluded that a 20 percent spawning stock biomass per recruit (SSBR) ratio (defined in § 653.2) was a reasonable goal or threshold for maintaining the spawning stock. However, it was also concluded that the goal of 20 percent escapement of juveniles established in Amendment 1 was incompatible with this spawning stock goal because of natural and fishing mortality on the adults.

The Group presented its first report to the Council under Amendment 1 procedures on December 2, 1987. Reviewing the most recent information available, including the information determined from adult red drum schools sampled by purse seine for mark-recapture and aging studies, the Group observed low recruitment of recent year classes to the spawning stock; fish younger than 12 years of age were poorly represented in the samples. Further, the Group noted that fishing mortality rates on juveniles are sufficiently high to drive the adult stock below the 20 percent SSBR goal or threshold for maintaining the spawning stock. The Group also observed that 1983–1986 exploitation rates were greatly in excess of levels that would allow realization of the management goal of 20 percent escapement of juveniles from the nearshore waters. From this information, the Group concluded:

> The most liberal interpretations of the data available suggest that, at present, escapement of juveniles to the adult stock is less than two percent, because inshore fishing mortality remains high in all States. Limited observatrions on the age composition of the offshore stock also support the contention that few fish have reached breeding age during recent years. This possible major decline in recruitment to the adult stock underscores the importance of maintaining and protecting all remaining breeding fish.

The Group recommended that the Council (1) set the ABC for the EEZ at zero until necessary escapement levels are attained, and (2) maintain the 20 percent SSBR ratio as an appropriate spawning stock goal or threshold, but increase the juvenile escapement rate from 20 to 30 percent in order to meet that goal. The Group agreed that the fishing mortality rate for adults (both recreational and commercial) is probably in the range of three to five percent, even with no allowable harvest in the EEZ, because there is a limited harvest of adults from nearshore waters and a limited incidental catch of red drum in other fisheries.

In December 1987, the Council adopted the report of the Group and initiated Amendment 2 to the FMP to set TAC at zero. The Council requested the Regional Director, NMFS, to initiate emergency action under section 305(e) of the Magnuson Act to reduce mortality on the SSB to zero in the EEZ until Amendment 2 could be implemented. Further, the Council requested each State to adopt rules that eventually would result in a juvenile escapement rate of 30 percent.

The Secretary of Commerce (Secretary) implemented an emergency rule (53 FR 244, January 6, 1988) that set TAC at zero and prohibited harvest or possession of red drum in or from the primary area of the Gulf of Mexico EEZ from January 1 through March 30, 1988. At the Council's request, the Secretary extended this rule for an additional 90 days, through June 28, 1988 (53 FR 7368, March 8, 1988).

Amendment 2 and this rule propose to continue the zero TAC and the harvest and possession implemented for the primary area by the interim emergency rule. When an SEFC stock assessment report and a Group recommendation indicate that red drum in the EEZ may be safely harvested without adversely impacting the SSB, the Counsil may allow resumption of the fishery by further amendment of the FMP.

Amendment 2 modifies Management Objective 1 and the statement of optimum yield in the FMP to provide for a 30 percent escapement rate for juvenile red drum (rather than 20 percent) to achieve and maintain the 20 percent SSBR ratio necessary to assure that recruitment overfishing does not occur. Amendment 2 and this rule also revise the procedure for determining allowable catch and allocations to provide a more scientifically correct description of the stock assessment and the Group review portions of this procedure. Amendment 2 also includes, as an addendum, revision of FMP Section 6.0 describing the habitat requirements of the stock to comply with a requirement recently added to the Magnuson Act by amendment.

This rule proposes to modify the reports required by § 635.5 from dealers and processors by eliminating the separate data elements for red drum harvested from the EEZ and those harvested from State waters. Accordingly, it is no longer necessary to retain the proviso at § 635.5(g) that States may require additional reports from dealers and processors. The authority of the States to collect data regarding red drum harvested from their waters is not affected by this action.

Concomitant with these changes, this rule proposes to delete definitions no longer used, add two new definitions, remove paragraphs and sections no longer applicable, and change "seasons" to "fishing year" to simplify and more properly designate the time period described in that section.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended by Pub. L. 99–659, requires the Secretary to publish regulations proposed by the Council within 15 days of receipt. At this time the Secretary has not determined that the FMP amendment this rule would

implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an environmental assessment (EA) for Amendment 2 describing the impact on the environment as a result of this rule. You may obtain a copy of the EA (see **ADDRESS**).

The Under Secretary, NOAA, determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under Executive Order 12291. Amendment 2 would continue measures implemented by the Secretary's emergency rule to protect the red drum spawning stock while the States take actions to increase the escapement of juvenile red drum to the SSB.

The Council prepared a draft regulatory impact review (RIR) that concluded the proposed rule will have the following economic effects. Greater long-term benefits will result than from other management alternatives considered (1) in terms of maintenance and restoration of the SSB, thereby preventing recruitment overfishing and collapse of the stock, and (2) in terms of increased production for eventual harvest.

The revision to 30 percent in the escapement goal of juvenile red drum to the offshore spawning stock is not expected to have an immediate impact on the fishery. This is because actual escapement levels, now less than 2 percent, are far below the current 20 percent goal; harvest or possession of red drum from the secondary areas is already prohibited; and the TAC for the directed commercial fishery is currently set at zero in the primary area. The major effect of this revision will be a possible extension of the time that the TAC will be held at zero in an effort to rebuild the resource and prevent overfishing. The economic effects cannot be estimated, but the increased benefits of sustained harvests over the long term from the protection of the resource is expected to more than offset any potential costs from keeping the fishery closed an additional amount of time.

Although directed commercial fishing is currently set at zero, the proposed action to close the primary area to all harvest of red drum will serve to eliminate any bycatch by shrimp and other net vessels. This reduction in catch will have a minimal impact because the 1987 bycatch of 8,100 pounds by shrimp vessels and 19,700 pounds by other net vessels represents a very small percentage of those vessels' gross revenue (likely less than 1 percent in most cases). Other factors that would further mitigate any effects of this action include (1) the industry has already adjusted to the effects of the rule as a result of a prohibition of fishing in the primary area by an emergency rule implemented on January 1, 1988, and (2) bycatch by shrimp vessels is now negligible, because the requirement to use turtle excluder devices by some shrimp vessels will greatly reduce, if not eliminate, red drum bycatch by these vessels. Consumers of red drum are not expected to be significantly impacted by the ban on commercial fishing because red drum appear to have good substitutes, indicating a highly elastic demand curve and, therefore, a small loss in consumer surplus.

Recreational fishermen will also be impacted in the primary area since both private and charter vessels will be required to reduce their retention of red drum by the 325,000-pound annual quota currently allowed. The impact on fishermen is expected to be relatively small, since the current bag limit is only one fish per individual, and fishermen will still be able to catch the fish, but must release any red drum caught. There may be a monetary impact on charter vessel operators if they lose trips directed on red drum as a result of the proposed action. A maximum gross annual economic loss to the 63 charter vessels operating from Mississippi and Louisiana was estimated to be $44,847 or an average of $712 per vessel (no Alabama trips in the primary area targeted red drum). As in the commercial fishery, the maximum impacts will be mitigated since the industry has already made necessary adjustments due to the emergency rule; charter vessels may shift their activities to targeting other species; and many fishermen may find a trip satisfying by hooking and releasing red drum.

The proposed action will not increase Federal enforcement costs, because the cost of enforcing the zero TAC equals the cost of enforcing bag and incidental catch limits. You may obtain a copy of the draft RIR (see **ADDRESS**).

This proposed rule is exempt from the procedures of Executive Order 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. A summary of effects is included above. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act. The collection-of-information requirements applicable to commercial vessels that take red drum as incidental catch are proposed to be removed by this rule. The collection-of-information requirements of the FMP were approved under OMB Control Number 0648–0177.

The Assistant Administrator for Fisheries, NOAA, determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Florida, Alabama, Mississippi, and Louisiana. Texas does not have an approved coastal zone management program. These determinations have been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 653

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 13, 1988.

James E. Douglas, Jr.,

Acting Assistant Administrator For Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 653 is proposed to be amended as follows:

PART 653—RED DRUM FISHERY OF THE GULF OF MEXICO

1. The authority citation for Part 653 continues to read as follows:

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

2. In § 653.2, the definitions for *Commercial fishing (fishery), Directed commercial red drum fishing (fishery), Recreatinal fishing (fishery),* and *Trip* are removed; and new definitions for *Overfishing* and *Spawning stock biomass per recruit (SSBR) ratio* are added in alphabetical order to read as follows:

§ 653.2 Definitions.

* * * * *

Overfishing means a fishing mortality rate that prohibits attaining the spawning stock goal or threshold, which

is established at a 20 percent spawning stock biomass per recruit (SSBR) ratio.

* * * * *

Spawning stock biomass per recruit (SSBR) ratio is an index of the impact of fishing mortality on the lifetime reproductive potential of recruits to the population. With no fishing mortality, the SSBR is 100 percent. Combinations of fishing mortality and the average age at which a year class becomes subject to exploitation in the fishery give rise to lower levels of SSBR, all of which can be expressed as percentages of the maximum.

* * * * *

§ 653.3 [Amended]

3. In § 653.3, paragraph (d) is removed.

§ 653.4 [Amended]

4. In § 653.4, the text is removed and the section heading is reserved.

5. In § 653.5, paragraphs (a), (b), (c)(4), (c)(5), (d), (f), and (g) are removed; paragraphs (c) and (e) are redesignated as paragraphs (a) and (b), respectively; in newly redesignated paragraph (a)(2), the word "and" is added after the semicolon; and newly redesignated paragraph (a)(3) is revised to read as follows:

§ 653.5 Reporting requirements.

(a) * * *

(3) Total poundage of red drum received during the reporting period, by each type of gear used for harvest.

* * * * *

6. In § 653.7, paragraphs (a)(1), (2), (3), (8), (17), (19), (21), and (22) are removed; paragraphs (a)(4) through (7), (20), and (9) through (16) are redesignated (a)(1) through (13), respectively; in newly redesignated paragraphs (a)(1), (2), (5), and (8), the references to "§ 653.4(a)", "§ 653.5(e)", "§ 653.22(c)", and "(a)(10)" are revised to read "§ 653.5(a)", "§ 653.5(b)", "§ 653.22(b)", and "(a)(8)", respectively; and newly redesignated paragraph (a)(4) is revised, to read as follows:

§ 653.7 Prohibitions.

(a) * * *

* * * * *

(4) Retain on board a vessel or possess red drum in or from the secondary or primary areas of the EEZ as specified in § 653.22(a);

* * * * *

7. Section 653.20 is revised to read as follows:

§ 653.20 Fishing year.

The fishing year for red drum begins on January 1 and ends on December 31.

8. Section 653.21 is revised to read as follows:

§ 653.21 Quotas.

TAC is zero for each fishing year.

9. In § 653.22, paragraph (a) is revised; paragraphs (b), (d), and (e) are removed; and paragraph (c) is redesignated (b), to read as follows:

§ 653.22 Harvest and landing limitations.

(a) *Harvest from the EEZ.* No red drum may be harvested or possessed in or from the secondary or primary areas of the EEZ. Red drum in the EEZ must be released immediately with a minimum of harm.

* * * * *

§ 653.23 [Amended]

10. In § 653.23, the text is removed and the section heading is reserved.

11. In § 653.24, paragraph (a)(4) is revised; in paragraph (b)(1), the words "through fishing" are removed; and paragraphs (b)(2), (3), and (4) are revised to read as follows:

§ 653.24 Allowable catch and allocation procedures.

(a) * * *

(4) Reexamine the spawning stock requirements (established as a spawning stock goal or threshold of a 20 percent SSBR ratio in relation to an unfished stock) and specify escapement levels of juvenile fish necessary to achieve these requirements;

* * * * *

(b) * * *

* * * * *

(2) Include consideration of fishing mortality rates, abundance relative to the established spawning stock goal or threshold, trends in recruitment, and whether overfishing is occurring;

(3) In specifying ABC, separately identify the quantity of the offshore population, in excess of the spawning stock goal or threshold, that may be harvested;

(4) When requested by the Council, include information on the levels of bag limits, size limits, specific gear harvest limits, and other restrictions required to attain the necessary escapement goal or prevent a user group from exceeding its allocation or quota under a TAC specified by the Council and on the economic and social impacts of such limits and restrictions.

* * * * *

Appendix A to Part 653 [Amended]

12. The Appendix to Part 653 is removed.

[FR Doc. 88-8535 Filed 4-14-88; 4:29 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 53, No. 75
Tuesday, April 19, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Commodity Distribution Reform Act and WIC Amendments of 1987; Implementation

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of implementation of Pub. L. 100–237, the Commodity Distribution Reform Act and WIC Amendments of 1987.

SUMMARY: This notice is to advise interested parties (including State Distribution Agencies, State Child Nutrition Program Directors, school food service directors, recipients of donated foods, farmers, food processing companies, and the general public), of how the U.S. Department of Agriculture (USDA) has implemented or intends to implement several key provisions of the Commodity Distribution Reform Act and WIC Amendments of 1987, hereafter referred to as the "Act." The provisions of the Act will be implemented either through regulations to be issued in the near future or other Departmental actions. This notice gives an overview of the Department's plans and details several actions already undertaken.

EFFECTIVE DATE: April 19, 1988.

FOR FURTHER INFORMATION CONTACT: Alberta C. Frost, Director, Food Distribution Division, 3101 Park Center Drive, Room 502, Alexandria, Virginia 22302 or telephone (703) 756–3680.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 152. It has been classified as "nonmajor," because it meets none of the criteria in the Executive Order: The action will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of the Act.

These programs are listed in the Catalog of Federal Assistance under No. 10.550 and are subject to the provisions of Executive Order 12373, which requires intergovernment consultation with State and local officials. (See 7 CFR Part 3015, Subpart V and final rule related notice published at 48 FR 29114, June 24).

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3507)

Background

Through the Food Distribution Program, USDA donates foods to various food programs to meet some of the nutritional needs of many children and adults in this country. The program also helps to expand markets for food that American farmers produce.

People that the program serves include:

- Children, through the National School Lunch Program (NSLP), the Child Care Food Program (CCFP), School Breakfast Program (SBP) and the Summer Food Service Program (SFSP). Also, children in nonprofit summer camps, and schools that get USDA commodities but do not participate in the NSLP.
- Indian households on reservations that participate in the Food Distribution Program (FDPIR).
- Needy people in the charitable institution program (CIP).
- Elderly people and their spouses, through nutrition programs for the elderly (NPE), authorized by Titles III and VI of the Older Americans Act.
- Pregnant and breastfeeding women, infants, and children up to 6 years of age and, in some cases, elderly people who live in areas that the Commodity Supplemental Food Program (CSFP) serves.
- Eligible people who live in a declared disaster area.
- Needy households that participate in the Temporary Emergency Food Assistance Program (TEFAP).

To aid American farmers, USDA buys food under price-support and surplus removal legislation. USDA also makes direct purchases of food for the nutrition programs. This food is made available to States and Indian reservations. USDA pays for the initial processing and packaging of the food and for transporting it to designated points within each State. State distributing agencies (DAs) are then responsible for storing the food, transporting it throughout the State, and distributing it at the local level to eligible recipient agencies (RAs) in the various food programs.

The foods that USDA donates may vary from time to time depending on what farm products are available. Because of the special nutritional needs of participants in FDPIR, NPE, and CSFP, USDA also purchases certain specified foods for these programs.

State distributing agencies have current information on the foods USDA has available for donation. USDA has available quarterly reports showing what foods each State distribute and the quantities that were distributed to each category of eligible recipient.

On January 8, 1988 President Reagan signed Pub. L. 100–237, "The Commodity Distribution Reform Act and WIC Amendments of 1987". This legislation is the first to be devoted primarily to the Food Distribution Program administered by USDA. The pupose of the legislation is to improve the manner in which commodities purchased by the Department are distributed to RAs, to improve the quality of commodities, and to increase the degree to which such distribution responds to the needs of RAs. The provisions of the Act will strengthen the Department's ongoing process of program review and improvement. The Department recognizes the importance of improving the Food Distribution Program. Actions taken prior to the enactment of the Act demonstrate the Department's continuing commitment to improve commodities and program operations in response to RA needs.

Last year, the Secretary established a special task force to review throughly commodity distribution operations and to pursue aggressively the improvement of the Food Distribution Program. Senior level officials from the three agencies responsible for commodity operation, the Agricultural Marketing Service (AMS), Agricultural Stabilization and Conservation Service (ASCS) and the Food and Nutrition Service (FNS) were appointed to the Task Force. The work of the Task Force initially focused on concerns from RAs participating in school food assistance programs. The role of the task Force has since expanded to address commodity distribution issues for all programs receiving commodities. On June 5, 1987, the Task Force issued a report outlining commitments to address all RA needs and concerns. Throughout the current School year the Task Force fulfilled its commitments to improve communication, to increase the variety and quality of foods, to offer better packaging, and to improve State DAs' performance and the commodity delivery system. The Secretary implemented over twenty changes in procurement and distribution activities and commodity specifications in response to RA requests. In this school year alone, over eight new forms of commodities were added and four changes in packaging specifications occurred. Several procurement procedures and contracting requirements changed resulting in improved performance in the area of distribution and delivery. The Task Force is now establishing new goals for School Year/Fiscal Year 1989 which will be announced in September 1988.

Implementation Plans for Pub. L. 100–237

The following lists the sections of the law, brief descriptions and the implementation method for each provision of the legislation. In general, Federal actions taken in response to provisions of the law directed at USDA operations are being announced through this notice. Provisions affecting States will be implemented either through proposed, interim or final regulations.

Section	Description	Implementation method
3(a) (1), (2)	Commodity specification development	**Federal Register** (FR) notice.
3(a)(3)	National Advisory Council	FR notice.
3(b)(1)(A)	Optional package sizes and form	Do.
3(b)(1)(B)	Procedures to monitor state distribution agencies	Administrative procedures.
3(b)(2)	Technical assistance and recipes	FR notice.
3(b)(3)	Summaries of specifications	Interim rules.
3(b)(4)	Advance distribution notice	FR notice.
3(b)(5)	Replacement procedures	Interim rules.
3(b)(6)	Monitor commodities in storage	FR notice.
3(b)(7)	Commodity value	Interim rules.
3(b)(8)	Ordering timeframes	FR notice.
3(c)	Purchase requirements	Do.
3(d) (1), (2), (3), (4)	Duties of state distributing agencies	Proposed rules.
3(d)(5)	State processing	Interim rules.
3(e)(1)(A)	Assessment fees	Proposed rules.
3(e)(1)(B)	Performance standards	Do.
3(e)(1)(C)	Allocation procedures	Do.
3(e)(1)(D)	Delivery schedules	Interim rules.
3(f)(1)	Cost benefit analysis	FR notice.
3(f)(2)	Semi-annual recipient agency information	Interim rules.
3(g)	Commodity field testing	FR notice.
3(h)	"Buy American"	Interim rules.
3(i)	Uniform regional interpretation	Administrative procedure.
3(j)	Per meal value	Interim rules.
5	CLOC/CASH extension	Administrative procedure.
6	National donated commodity processing extension	Interim rules.

Commodity Specification Development

Section 3(a) of the Act covers specification development, lists affected programs and establishes a National Advisory Council to assist the Secretary in the development of specifications. This subsection requires, in developing specifications under which commodities are purchased, that the Secretary consult with a National Advisory Council and consider semiannual recipient agency information received under section 3(f)(2) and the results of commodity field testing, required under section 3(g). This subsection also requires the Secretary to ensure that commodities are of the quality, size and form most usable by RAs. Further, to the maximum extent practicable, commodities must be consistent with the Dietary Guidelines for Americans issued jointly by USDA and the Department of Health and Human Services (DHHS). These guidelines recommend, among other things, moderate levels of fat, salt and sugar in the diet.

This provision applies to the following programs: CSFP, FDPIR, NSLP, CCFP, NPE, SBP, Commodity School Program and to the extent practicable, TEFAP and CIP.

The Department has always considered information from annual State Food Distribution Advisory Council Reports, quarterly complaint reports and informal acceptability surveys in developing and improving commodity specifications. This year, in targeting commodities for improvements in packaging and specifications, the Secretary gave significant weight to existing recipient agency information. In addition, USDA routinely conducts small scale pilot purchases to evaluate new processed commodities. Recent improvements in chicken nugget specifications and increased purchases of popular fish nuggets demonstrate the Department's consideration of and reaction to recipient agency information.

USDA already considers the Dietary Guidelines, the needs of the Indian and elderly populations, and the NSLP meal pattern requirements when developing commodity product specifications for all new processed products. Most commodity specifications attempted to keep sugar, fat and salt content to a moderate level. Over the last several years, USDA has made significant improvements, e.g., the fat content in frozen ground beef has been reduced from 28 percent to a maximum of 24 percent (with most product averaging 21.5); salt in canned meat and poultry has been reduced; and canned fruits are

only packed in light syrup or fruit juice. Only low saturated fat vegetable oil is permitted in refried beans, a new product introduced this year.

As a result of the new legislation, the Department will increase the field testing of commodities, design formal acceptability survey procedures, improve complaint reporting and use semi-annual data from RAs in determining the forms and quality of commodities to provide to RAs. Later this year, when available, the Secretary will also use the National Advisory Council guidance to develop commodity specifications. Further, as a part of the ongoing process to reduce the fat, salt and sugar content of commodities, the Department is reexamining current contents of all commodities to establish the lowest possible sugar, fat and salt levels while maintaining product acceptability and reasonable costs.

National Advisory Council

Section 3(a)(3) of the Act requires the Secretary to establish an Advisory Council to provide guidance with respect to commodity specifications. Currently, FNS is setting up the charter for the council and reviewing nominations for Council membership in accordance with existing Departmental guidelines.

Optional Package Sizes and Forms

Section 3(b)(1)(A) of the Act requires the Secretary to implement a system to provide recipient agencies optional packaging and forms of commodities. This provision applies to CSFP, FDPIR, NSLP, SFSP, SBP, CCFP, NPE, CIP, Commodity School Program, summer camps and TEFAP.

In enacting Pub. L. 100–237, Congress intended for the Secretary to provide a reasonable range of options, where a significant portion of the RAs have expressed a desire for an alternative form or package size. The intent was reflected in the Act's legislative history. On December 17, 1987 Congressmen Panetta and Goodling agreed that this requirement should not be interpreted to mean that any single recipient agency could require a size or package that is unique and not desired by other recipient agencies.

The Department continually strives to increse the variety of commodities available and to provide pack size options in response to RA needs. Using State advisory council reports, comments from regional/State meetings and acceptability survey data, the Department determines if product quality, form and/or packaging is acceptable. The existing ordering system provides State DAs with a wide selection of different package sizes and forms of commodities. For example, currently State DAs may order frozen ground beef in five different forms; and 48 different pack sizes and varieties of flour are available to order.

In FDPIR and CSFP, commodities are packed in consumer size packages and a wide variety of foods are available. For infant participants, two types of infant formula (both soy and milk-based) are available under CSFP and infant cereal is available through FDPIR and CSFP. In the future, the Department will also consider the semiannual information from recipient agencies required under section 3(f)(2) of the Act when selecting optional forms and package sizes for commodities.

It should be noted that State DAs are under some constraints when ordering commodities. For cost effective procurement and shipping, the Department purchases commodities in full truck load quantities (about 40,000 pounds). Therefore, the total demand for a specific type of commodity within a State or distribution area clearly affects which types can be ordered.

The State performance standard regulations required under section 3(e)(1)(B) of the Act will direct State agencies to notify RAs of available ordering options and take their preferences into account when ordering or accepting commodities for donation.

To make commodities available in more processed forms and more convenient sizes, FNS plans to pilot test a State Option Contract (SOC) system for School Year 1989. Under a SOC system, the Department will purchase a processed commodity and the State will reimburse the Department for the cost of processing. This should increase the availability of desired processed products without reducing actual amounts of foods going to RAs.

Procedures to Monitor State Distributing Agencies

Section 3(b)(1)(B) of the Act requires the implementation of procedures to monitor the manner in which State DAs carry out their responsibilities. Voluntary State performance standards, developed with the assistance of the American School Food Service Association (ASFSA) and the National Association of State Agencies for Food Distribution (NASAFD), have been in effect for School Year 1988. Through the existing management evaluation process, FNS will monitor how States carryout their responsibilities under both the voluntary standards and later the mandatory performance standards to be established pursuant to section 3(e)(1)(B) of the Act.

Technical Assistance and Recipes

Under section 3(b)(2) of the Act, the Secretary is required to provide technical assistance to RAs on the use of commodities, including handling, storage and menu planning. The Secretary is also required to distribute to all RAs suggested recipes for the use of donated commodities. Technical assistance in the form of fact sheets, which contain storage, handling, preparation and cooking information, has been available to RAs since October 1987. A booklet containing the nutritive values of commodities was also distributed to State DAs in October 1987 for dissemination to RAs. Additional copies of both publications will be available for distribution this year. The USDA Recipe Cards (with recipes using commodities) will be printed and disseminated to school food authorities this summer. The Department is exploring options beyond current efforts on how to provide recipes to other RAs.

Commodity Specification Summaries

Section 3(b)(3) of the Act requires that summaries of commodity specifications be made available to State DAs and that State DAs make such summaries available to RAs upon request. As puchases occur, FNS routinely disseminates purchase documents (containing detailed specifications) to State DAs receiving a particular commodity. Because these highly technical documents are difficult to interpret, FNS summarized essential specification information in an instruction (FNS 716–1) which was originally disseminated to State DAs in 1983. This instruction has been updated and over 23,000 copies were printed and distributed to State DAs in October 1987. Additional copies will be printed and made available for distribution in 1988. Interim regulations will require State DAs to make these summaries of commodity specification available to RAs.

Advance Distribution Notice

Section 3(b)(4) of the Act requires the Secretary to implement a system to provide not less than 60 days advance notice to recipient agencies and State DAs of the types and quantities of commodities to be distributed. Emergency purchases and purchases of perishable fruits and vegetables are exempted from the 60-day advance notification requirement.

For surplus removal commodities (meat, poultry, fish, fruit and vegetable products), the Department typically provides State DAs well over 60 days notice regarding the types and quantities

of commodities scheduled for distribution. Traditionally, FNS notifies State DAs in the spring of the types of commodities available, shipping timeframes, ordering options and anticipated purchase quantities for the upcoming school year. The State DAs in turn notify FNS of the desired form, amount accepted and requested shipping timeframes. Depending on the commodity, shipments begin between July and November and continue over several months. While there are instances where, because of market conditions, the quantities purchased are less than anticipated, the majority of purchase projections are accurate and the Department makes a good faith effort to purchase the amounts requested by DAs.

State DAs determine the distribution schedules and types and quantities to order for continually available commodities such as grain, dairy, peanut and oil products. Within the established funds available or allocations of commodities provided by USDA, State DAs have discretion over the timeframes, quantities and forms in which these commodities are ordered.

To ensure that RAs receive notification, current voluntary performance standards for State DAs specify that they provide timely delivery schedules and purchase information to RAs. These requirements will be incorporated into proposed rules containing State DA performance standards to be issued in the near future. Management reviews will note whether or not State DAs are complying with the notification requirements.

Monitor Commodities in Storage

Under section 3(b)(6) of the Act, the Secretary must monitor the condition of commodities designated for donation to RAs that are being stored by or for the Secretary to ensure that high quality is maintained. The Department already has strict inspection requirements in place to maintain the quality of commodities in storage. All commodities in storage are periodically reinspected in accordance with procedures set forth in the Commodity Inspection and Maintenance Handbook No. 2—IM, Revision 3. This handbook was updated in June 1985 to revise official temperature and humidity requirements and inspection schedules for dairy products.

Ordering Timeframes

Section 3(b)(8) of the Act requires that State DAs receive commodities not more than 90 days after such commodities are ordered, unless the DA specifies a longer delivery period. Recently, USDA reduced the minimum lead-time for the submission of orders for grain, peanut, and oil products by five days. Now State DAs need only submit these orders to FNS 65 to 70 days in advance of the requested month of shipment. Commodities ordered for the first half of the month are received within 90 days of the submission of the order. Most of the commodities ordered will be received within the 90-day period after submitting the order. However, some commodities ordered for the second half of the month shipping period could be received beyond the 90-day period in the law. The Department is examining options for ways to minimize or eliminate this and other delivery problems.

For example, to ensure State DAs receive commodities promptly, USDA tested a delivery period purchase system this school year. Delivery period purchasing requires vendors to deliver commodities during a specific period of time. In contrast, shipment period purchasing requires vendors to ship commodity during a specific period. The effects of delivery period purchasing will be analyed this spring. The factors to be analyzed include the impact on the submission of bids, product cost and the reliability of deliveries. The Department will also examine whether States have been promptly submitting consignee receipts since payments to vendors under delivery purchasing depend on these receipts. If consignee receipts are prompty submitted and if this method of purchasing is found to increase the reliability of commodity shipments without substantially increasing costs, USDA will consider the extension of delivery period purchasing for School Year 1989.

Orders for meat, polutry, fish, fruit and vegetable products are submitted to FNS as purchases take place, but no less than 30 days prior to shipment. Therefore, these surplus removal products are received within 90 days of submitting delivery orders to FNS.

Purchase Requirement

Under section 3(c)(1) of the Act, the Secretary may not refuse any vendor's offer in response to an invitation to bid solely on the basis that the vendor's offer provides less than the total poundage ordered for a destination, provided that the bid meets minimum truckload requirements. This section pertains to all commodities purchased against program entitlements, but makes exception for compliance with the Department's surplus removal responsibilities. For example, if the Department solicits bids for 80,000 pounds of an item to a destination and a vendor submits a bid for 40,000 pounds, that bid must be considered under the same criteria as a bid for 80,000 pounds. This provision is effective immediately for all entitlement commodities and the Department is now considering all such bids. Bids must, however, as stated in the law, be provided in the standard order sizes indicated in the purchase announcement requesting bids. This provision will allow more small businesses to participate fully in purchase programs.

Under section 3(c)(2) of the Act the Secretary may not enter into a contract for the purchase of entitlement commodities without considering the previous history and current patterns of the bidding party with respect to compliance with applicable meat inspection laws and other standards relating to the wholesomeness of food for human consumption. While never specified in previous legislation, the Department's ongoing practice is to maintain vendor history files and to monitor closely vendors' compliance with all laws regarding inspection and the safety of foods.

Prior to accepting bids from potential vendors, contracting officers determine whether they are responsibile food processors and reliable suppliers. Under an established system, the appropriate Federal inspectors and graders alert contracting officers to any deviations at a vendor's processing plants. Procurement announcements also require that vendors comply with applicable laws regarding wholesome food processing. In the past, vendors have had contracts terminated and have been debarred from bidding because of non-compliance. The Department intends to continue strict monitoring of existing and potential vendors' compliance with meat inspection and food wholesomeness laws and regulations.

Cost Benefit Anaylsis

Section 3(f)(1) of the Act requires the Secretary to establish procedures before October 4, 1988 to provide for a systematic review of the cost and benefits of providing commodities of the kind and quantity that are suitable to the needs of RAs. Prior to purchasing surplus removal commodities (meat, fish, poultry, fruit and vegetable products) AMS analyzes the costs of each purchase. The AMS purchase analysis includes assessing the quantity and type of commodities available and the needs of RAs. Using recipient agency data and Department commodity outlook projections, purchase plans are developed.

The Department offers each State DA its prorate share of the anticipated purchase quantity. Timeframes for shipping products and ordering options are provided to DAs at the time the offer is made. The quantity of commodity purchased, the form and the timeframes depend on the State DAs' acceptance requests. After purchases have been shipped to RAs, FNS uses existing communication mechanisms (complaint reports, acceptability surveys, and State Advisory Council Reports) to determine the RA benefit of specific commodities and whether purchases were suitable.

As required by law, the Department intends to formalize procedures for the analysis of RA needs to determine the suitability of purchases and the benefits derived from these purchases.

Commodity Field Testing

Section 3(g) of the Act requires ongoing field testing of present and anticipated commodity purchases. USDA currently has informal procedures for testing commodities. Small pilot purchases take place prior to offering large quanitities of new commodities to States. RAs receiving the new commodity are asked to participate in informal acceptability surveys. The results of these surveys are used to determine the need for specification changes and whether to pursue additional purchases. The Department does however intend to establish more formal field testing procedures.

"Buy American"

Section 3(h) of the Act mandates that the Secretary require that recipient agencies purchase, whenever possible, only food products produced in the United States. The requirement may be waived when RAs have unusual or ethnic preferences in food products or when the Secretary considers appropriate. RAs in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, Virgin Islands, and the Commonwealth of Northern Mariana Islands are exempted from this requirement. This provision is effective as of the enactment of the law, January 8, 1988. Interim rules regarding the Secretary's implementation of this requirement will be forthcoming.

Uniform Interpretation

Section 3(i) of the Act requires the Secretary to take such actions as are necessary to ensure that regional offices of USDA interpret uniformly across the United States policies and regulations issued to implement this Act. The Department continues to review for consistency all policies and guidelines issued by regional offices related to provisions in this section. In addition, to ensure consistent monitoring of State DAs, FNS developed national guidelines to monitor the manner in which State DAs carry out their responsibilities.

Per Meal Value of Donated Foods

Section 3(j) of the Act amends section 6(e) of the National School Lunch Act by requiring that each State DA offer each school food authority not less than the national average per meal value of donated foods. Each offer shall include the full range of commodities to the extent that quantities requested are sufficient to allow efficient delivery to and within the State. This provision is effective upon enactment of the law. In the near future, the Department will issue interim rules with specific guidelines for implementing this provision.

Dated: April 13, 1988.

Sonia F. Crow,

Acting Administrator.

[FR Doc. 88-8501 Filed 4-18-88; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 20-88]

Foreign-Trade Zone 82, Mobile, AL; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Mobile, Alabama, grantee of Foreign-Trade Zone 82, requesting authority to expand the zone to include additional acreage within the Brookley Complex and adjacent Brookley Airport, within the Mobile Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 8, 1988.

The Mobile zone was approved on February 24, 1983 (Board Order 208, 48 FR 9052, 3/3/83), and presently covers 13 acres within the Brookley Complex. The grantee has requested authority to include the entire Brookley Complex (368 acres) within the zone, and to expand the zone to include part of the adjacent Brookley Airport (667 acres). Both parcels are owned by the Mobile Airport Authority, a public corporation. The expansion is being requested to alow the City to market the zone more effectively as part of its economic development efforts.

No manufacturing approvals are being sought in the application. Such approvals would be requested from the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Joseph Lowry (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20030; David L. Willette, District Director, U.S. Customs Service, South Central Region, 250 North Water St., P.O. Box 2748, Mobile, AL 36652; and Colonel Larry Bonine, District Engineer, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, AL 26628–0001.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before May 31, 1988.

A copy of the application is available for public inspection at each of the following locations:

U.S. Customs District Office, 250 N. Water St., Mobile, AL 36652.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Room 1529 Washington, DC 20230.

Dated: April 13, 1988.

John J. Da Ponte, Jr.,

Executive Secretary

[FR Doc. 88-8555 Filed 4-18-88; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of quarterly update of foreign government subsidies on articles of quota cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: April 1, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Paul J. McGarr, Office of Compliance, International Trade Administration, U.S. Department

of Commerce, Washington, DC 20230, telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commece ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701 (c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter, the Department has determined that the subsidy amounts have changed for each of the countries for which subsidies were identified in our January 1, 1988 annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Acting Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Joseph A. Spetrini,

Acting Assistant Secretary Import Administration.

Date: April 13, 1988.

APPENDIX.—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross [1] subsidy	Net [2] subsidy
Belgium	European Community (EC) Restitution Payments	0.0¢/lb.	0.0¢/lb.
Canada	Export Assistance on Certain Types of Cheese	26.9¢/lb.	26.9¢/lb.
Denmark	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Finland	Export Subsidy	104.2¢/lb.	104.2¢/lb.
	Indirect Subsidies	22.7¢/lb.	22.7¢/lb.
		126.9¢/lb.	126.9¢/lb.
France	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Greece	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Ireland	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Italy	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Luxembourg	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Netherlands	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Norway	Indirect (Milk) Subsidy	19.6¢/lb.	19.6¢/lb.
	Consumer Subsidy	43.4¢/lb.	43.4¢/lb.
		63.0¢/lb.	63.0¢/lb.
Spain	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Switzerland	Deficiency Payments	113.6¢/lb.	113.6¢/lb.
United Kingdom	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
West Germany	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 88–8556 Filed 4–18–88; 8:45 am]
BILLING CODE 3510-DS-M

Short-Supply Review on Certain Steel Strip; Request for Comments

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for short supply under Article 8 of the U.S.-EC Arrangement on Certain Steel Products with respect to certain bonderized cold-rolled steel strip for use in manufacturing needle roller bearing shells.

DATE: Comments must be submitted on or before April 29, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the US steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product."

We have received a short-supply request for two grades (MRST 443 and C15M) of special cold-rolled steel strip, bonderized on one side only, for use in deep-drawing needle roller bearing shells or housings. Steel strip to specification MRST 443 ranges from 22.0 mm to 202.0 mm in width, 0.5 mm to 1.2 mm in thickness, and conforms to DIN specification 1624. Steel strip to specification C15M ranges from 40.5 mm to 179.0 mm in width, 0.77 mm to 1.20 mm in thickness, and conforms to DIN specification 1544.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than April 29, 1989. Comments should focus on economic factors

involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce at the above address.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

April 13, 1988.

[FR Doc. 88-8560 Filed 4-18-88; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Special Shapes; Request for Comments

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement on Certain Steel Products, with respect to certain heavy steel special shapes.

DATE: Comments must be submitted on or before April 29, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the US steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors) an additional tonnage shall be allowed for such product or products * * *."

We have received a short-supply request for certain heavy special shapes including track shoe sections, track sprocket segment sections, and ripper shank profiles, that are used in the manufacture and assembly of earthmoving, construction, and materials handling machinery.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than April 29, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce at the above address.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

April 13, 1988.

[FR Doc. 88-8561 Filed 4-18-88; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Semi-Finished Steel Slabs: Request for Comments

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products, and the U.S.-Korea Arrangement Concerning Trade in Certain Steel Products, with respect to various sizes and grades of carbon semi-finished steel slabs.

DATE: Comments must be submitted no later than April 29, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC, the U.S.-Brazil, and the U.S.-Korea steel arrangements provide that if the U.S. determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product.

We have received a short-supply request for carbon semi-finished steel slabs ranging from 4 to 12 inches in thickness and 60 to 85 inches in width, having a maximum weight of 47,000 pounds, and used to produce ASTM specification A-36 and A-285 grade C plate.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than April 29, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce, at the above address.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

April 13, 1988.

[FR Doc. 88-8559 Filed 4-18-88; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program; Public Workshop

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of public workshop.

SUMMARY: The National Bureau of Standards (NBS) will host a public workshop on July 14-15, 1988 to provide interested parties an opportunity to participate in the development of technical requirements for accrediting laboratories that perform bulk asbestos analysis.

DATES: The workshop will be held on Thursday July 14 from 7:00 p.m. to 10:00 p.m. and Friday July 15 from 9:00 a.m. to noon. Persons planning to attend the workshop should inform Dr. Lawrence Galowin, NVLAP, National Bureau of Standards, Admin. A527, Gaithersburg, MD 20899, by June 10, 1988, in order to obtain draft technical documents to be reviewed at the workshop.

Place: The workshop will be held at Bentley Hall, Johnson State College in Johnson, Vermont (approximately 45–50 miles from Burlington, VT.) as part of the Johnson Conference, "Asbestos—Measurement Research and Laboratory Accreditation" July 10–15, 1988 sponsored by The American Society for Testing and Materials, ASTM Committee D22.

SUPPLEMENTARY INFORMATION:

Background

This notice is issued in accordance with the NVLAP Procedures (15 CFR Part 7). In a **Federal Register** Notice dated October 26, 1987 (52 CFR 39977–39978) the National Bureau of Standards (NBS) announced the establishment of an accreditation program for laboratories that perform analyses for asbestos content in (1) bulk insulation and building material collected during public school inspections, and (2) airborne particulates collected following asbestos abatement projects. Establishment of the program is pursuant to section 206d of Pub. L. 99–519, the Asbestos Hazard Emergency Response Act (AHERA) of October 1986. Accreditation will be offered to all laboratories under procedures of the National Voluntary Laboratory Accreditation Program (NVLAP).

Technical criteria, requirements, and procedures for accreditation of laboratories performing analysis of asbestos content by polarized light microscopy (PLM), in bulk insulation and building materials, have been developed and will be presented at the workshop. All interested parties will have an opportunity to comment on all phases of the program. The workshop is part of the NVLAP process of assuring that accreditation programs are of high technical quality and are relevant to the needs of those affected by accreditation.

The following plans for the workshop have been established:

1. *Purpose:* The workshop will provide all interested persons with an opportunity to: (1) Participate in the development of technical criteria, requirements, and procedures for evaluation and accreditation of laboratories that perform analysis of bulk asbestos by Polarized Light Microscopy (PLM); and (2) discuss standards and/or other protocols applicable to the accreditation program.

2. *Procedure:* The workshop will be an informal meeting. The presiding NBS chairperson will allocate the time available for discussion of each issue to be addressed, and exercise such authority as may be necessary to insure the equitable and efficient conduct of the workshop and to proceed in an orderly manner.

3. *Provisions:* This workshop will be open to the public. No registration fee is required for the public workshop; housing is the responsibility of attendees.

Documents in Public Record

Summary minutes of the meeting will be prepared and made available for inspection and copying in the NVLAP program office, Room A527 Administration Buliding, Gaithersburg, Maryland.

Ernest Ambler,

Director.

Date: April 13, 1988.

[FR Doc. 88–8475 Filed 4–18–88; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit; Indianapolis Zoological Society (P409)

On Decembr 31, 1987, notice was published in the **Federal Register** (52 FR 49463) that an application had been filed by the Indianapolis Zoological Society, 1200 West Washington Street, Indianapolis Indiana 46222 to take Atlantic bottlenose dolphins (*Tursiops truncatus*) and Pacific false killer whales (*Pseudorca crassidens*) for public display.

Notice is hereby given that on April 13, 1988, as authorized by the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Services, 1825 Connecticut Avenue NW., Room 805, Washington, DC;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Diretor, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Date: April 13, 1988.

Nancy Foster,

Director of Protected Resources and Habitat Programs, National Marine Fisheries Services.

[FR Doc. 88–8478 Filed 4–18–88; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service, Marine Mammals; Issuance of Permits; Kyushu African Lion Safari Co. Ltd. (P412)

On March 18, 1988, Notice was published in the **Federal Register** (53 FR 8944), that an application had been filed with the National Marine Fisheries Service by Kyushu African Lion Safari Co. Ltd., of Japan for a permit to take and export four (4) rehabilitated beached/stranded or captive born California sea lions (*Zalophus californianus*) for public display.

Notice is hereby given that on April 14, 1988, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Kyushu African Lion Safari subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Date: April 14, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88–8477 Filed 4–18–88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; John G. Shedd Aquarium (P396A)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. *Applicant:* John G. Shedd Aquarium, 1200 South Lakeshore Drive, Chicago, Illinois 60605.

2. *Type of Permit:* Public Display.

3. *Name and Number of Marine Mammals:* Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), 8

4. *Type of Take:* Capture/maintain in captivity.

5. *Location of Activity:* Monterey Bay, California or the Santa Catalina Channel in the Southern California Bight Area.

6. *Period of Activity:* 4 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW. Room 805, Washington, DC.;

Director, Southwest Region, National Marine, Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731; and

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Date: April 14, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs National Marine Fisheries Service.

[FR Doc. 88-8480 Filed 4-18-88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; Theater of the Sea (P92C)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Theater of the Sea, P.O. Box 407, Islamorada, Florida 33036.

2. Type of Permit: Public Display.

3. Name and Number of Marine Mammals: Atlantic bottlenose dolphin *(Tursiops truncatus)*, 6.

4. Type of Take: Capture and maintain for show performances and in the human/dolphin swin programs.

5. Location of Activity: Charlotte Harbor and Sarasota, Florida, not to extend farther north than Crystal River.

6. Period of Activity: 3 Years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is fowarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Services.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Rm. 805, Washington, DC; and

Director, Southeast Region, National Marine Fishieries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Date: April 14, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88-8481 Filed 4-18-88; 8:45am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; Dr. Randall S. Wells (P319A)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Dr. Randall S. Wells, Dolphin Biology Research Associates, Inc., 163 Siesta Drive, Sarasota, Florida 34242.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: Atlantic bottlenose dolphins (*Tursiops truncatus*), 3,000.

4. Type of Take: The Applicant proposes to take bottlenose dolphins by inadvertent harassment during approach from small boats to conduct photographic identification censuses, behavioral observations, and underwater acoustic recordings over a 5-year period. Animals may be approached repeatedly but not more than twice each day. The objectives of the NMFS sponsored studies are detection of large-scale changes in abundance in the Southeast U.S. and establishment of archival database(s) for long-term trend detection. This information will provide data necessary to determine if modification of dolphin take quotas are necessary. The behavioral observations and underwater acoustics studies will provide data on patterns of social interactions between males and females and provide new insights into the possible functions of some animals' acoustic emissions.

5. Location and Duration of Activity: Central west coast of Florida from Crystal River southward to Fort Myers over a 5-year period.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Rm. 805, Washington, DC; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Date: April 13, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 88-8482 Filed 4-18-88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; Dr. Bernd Wursig (P36A)

On November 20, 1987, notice was published in the **Federal Register** (52 FR 44622) that an application had been filed by Dr. Bernd Wursig, Associate Professor of Marine Biology, and Ms. Nancy Black, Moss Landing Marine Laboratories, Moss Landing, California 95039, for a permit to take by harassment Pacific white sided dolphins (*Lagenorhynchus obliquidens*) for the purposes of scientific research.

Notice is hereby given that on April 13, 1988, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following office:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC 20235; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: April 13, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88-8479 Filed 4-18-88; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations With the Government of Hong Kong

April 13, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Requesting public comment.

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854)

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION: On March 15, 1988, the Government of the United States requested consultations with the Government of Hong Kong with respect to staple artificial fabric in Category 611. This request was made on the basis of the current Bilateral Textile Agreement between the Governments of the United States and Hong Kong.

If no solution is agreed upon in consultations between the two governments, the United States may request the Government of Hong Kong to limit exports in Category 611, produced or manufactured in Hong Kong and exported to the United States during 1988. The United States reserves the right to control imports at the established level.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, dated December 11, 1987).

Anyone wishing to comment or provide data or information regarding the treatment of Category 611, under the agreement with the Government of Hong Kong, or in any other respect thereof, or to comment on domestic production or availability of man-made fiber textiles included in the category, is invited to submit such comments or information in ten copies to Mr. James H. Babb, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-8518 Filed 4-14-88; 2:09 pm]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Extension of Public Comment Period for Draft Environmental Impact Statement for the Biological Aerosol Test Facility; Dugway Proving Ground, Utah

AGENCY: Department of the Army, Department of Defense.

ACTION: Notice to extend the Public Comment Period for the Proposed Biological Aerosol Test Facility, Dugway Proving Ground, Utah.

1. SUMMARY: The Department of the Army, as Executive Agency for the Department of Defense (DOD), published a Draft Environmental Impact Statement for the Biological Aerosol Test Facility, Dugway Proving Ground, Utah, in late February 1988. The public comment period was originally scheduled to end on March 28, 1988. The

Commander, Dugway Proving Ground, extended the public comment period to April 14, 1988. The Army now extends the pubilc comment period for the Draft Environmental Impact Statement. A notice will be published at least 30 days in advance when the public comment period will be closed.

2. The Draft EIS for the Biological Aerosol Test Facility may be obtained by contacting Ms. Kathy Whitaker at commercial telephone (801) 831–2116, or by writing to the following address: Commander, U.S. Army Dugway Proving Ground, STEDP-PA, Dugway, Utah 84022–5000. Written comments should be submitted to the same address.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA (I&L).

[FR Doc. 88–8495 Filed 4–18–88; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Navy Resale Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Navy Resale System Advisory Committee will meet on May 28, 1988, in the Savoy Room, the Ritz-Carlton Hotel, 160 East Pearson Street, Chicago, Illinois, 60611. The meeting will consist of two sessions: the first from 8:00 a.m. to 8:50 a.m.; and the second from 9:00 a.m. until 4:00 p.m. The purpose of the meeting is to examine policies, operations, and organization of the Navy Resale System and to submit recommendations to the Secretary of the Navy. The agenda will include discussions of the organization of the Resale System, planning, financial management, merchandising, field support, and industrial relations.

The Secretary of the Navy has determined in writing that the public interest requires that the second session of the meeting be closed to the public because it will involve discussions of information pertaining solely to trade secrets and confidential commercial or financial information. These matters fall within the exemptions listed in subsections 552b (c)(2)(4), and (9)(B) of WR 18 April 86 Title 5, United States Code. Therefore, the second session will be closed to the public.

For further information concerning this meeting, contact: Commander W. T. Kaloupek, SC, USN, Naval Supply Systems Command, NAVSUP 09B, Room 606, Crystal Mall, Building No. 3, Arlington, Virginia 22202, Telephone Number: (202) 695–5457.

Date: April 14, 1988.

W.R. Babington, Jr.,

Commander, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 88–8521 Filed 4–18–88; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Panel on Superconductivity will meet on May 3–4, 1988. The meeting will be held at the Office of the Chief of Naval Research, 800 N. Quincy St., Arlington, VA. The meeting will commence at 8:00 a.m. and terminate at 5:30 p.m. on May 3; and commence at 8:00 a.m. and terminate at 4:00 p.m. on May 4, 1988. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the panel members on the benefits, barriers and strategies related to superconducting materials for naval applications. The agenda will include a program overview, discussions addressing material and application requirements, and the Navy's perspective on requirements. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive Order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting contact: Commander L. W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number: (202) 696–4879.

Date: April 14, 1988.

W. R. Babington, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 88–8522 Filed 4–18–88; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Education Appeal Board; Applications for Review

AGENCY: Department of Education.

ACTION: Notice of applications for review accepted for hearing by the Education Appeal Board.

SUMMARY: This notice lists the applications for review accepted for hearing by the Education Appeal Board (the Board) between December 28, 1987 and March 31, 1988. The Chairman has prepared a summary of each appeal to help potential intervenors. In addition, the notice explains how interested third parties may intervene in proceedings before the Board.

FOR FURTHER INFORMATION CONTACT: The Honorable Ernest C. Canellos,

Chairman, Education Appeal Board, 400 Maryland Avenue SW. (Room 3053, FOB–6), Washington, DC 20202. Telephone: (202) 732–1754.

SUPPLEMENTARY INFORMATION: Under sections 451 through 454 of the General Education Provisions Act (20 U.S.C. 1234 et seq.), the Board has authority to conduct (1) audit appeal hearings, (2) withholding, termination, and cease and desist hearings initiated by the Secretary of Education (the Secretary), and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board.

The Secretary has designated the Board as having jurisdiction over appeal proceedings related to final audit determinations, the withholding or termination of funds, and cease and desist actions for most grant programs administered by the Department of Education (the Department). The Secretary also has designated the Board as having jurisdiction to conduct hearings concerning most Department-administered programs that involve (a) a determination that a grant is void, (b) the disapproval of a request for permission to incur an expenditure during the term of a grant, or (c) determinations regarding cost allocation plans or special rates negotiated with specified grantees.

Regulations governing Board jurisdiction and procedures are set forth in 34 CFR Part 78.

Applications Accepted

Appeal of the California State Department of Rehabilitation, Docket No. 27(263)87, ACN: 09–40103

The State Department of Rehabilitation (State) appealed a final letter of determination issued by the Regional Commissioner of the Rehabilitation Services Administration. The underlying audit reviewed programs conducted under the Rehabilitation Act of 1973, as amended, during fiscal year 1984.

The Commissioner concluded that the State improperly allocated indirect costs in the conduct of its various programs and failed to develop an approved cost allocation program.

The Department seeks a refund of $7,763,552. The State disputes all liability.

Appeal of the Appalachian State University (NC), Docket No. 1(265)88, ACN: 04–75068

The University appealed a final letter of determination issued by the Grants and Contracts Service (GCS). The underlying audit reviewed the University's administration of the Upward Bound and Project Sunrise programs conducted between July 1, 1985 and June 30, 1986.

GCS determined that the University failed to provide sufficient documentation to establish its "in kind" participation in the subject program.

The Department seeks a refund of $17,498. The University disputes liability for all but $256.

Appeal of the University of Wisconsin, Docket No. 2(266)88, ACN: 05–70307

The University appealed a final letter of determination issued by Grants and Contracts Service (GCS). The underlying audit reviewed the University's High School Equivalency Program conducted between October 1, 1982 and August 31, 1986.

GCS determined that the University incurred excessive costs for housing and meals, failed to document travel records for recruiters' activities, and incurred excessive fleet car penalties for vehicles used to transport recruiters.

The Department seeks a refund of $48,943. The University admits liability for fleet car penalties and excessive meals amounting to $6,460, but disputes all remaining liability.

Appeal of the State of Rhode Island, Docket No. 3(267)88, ACN: 01–62002

The State appealed a final letter of determination issued jointly by the Assistant Secretaries of Special Education and Rehabilitative Services, Vocational and Adult Education, and Elementary and Secondary Education. The underlying single-State audit, conducted by the State's Auditor General, reviewed various State-operated, federally-funded, education programs.

The Assistant Secretaries determined that certain expenditures were not authorized, or they were not properly documented; and, unemployment compensation payments were improperly charged to federal grants.

The Department seeks a refund of $22,173. The State argues that the final letter of determination was directed to the State's Commissioner of Education yet, some of the findings relate to programs under the auspices of other State agencies, over which the Commissioner has no control. As to those claims over which the Commissioner has responsibility, the State disputes liability in its entirely.

Appeal of Institutional Development and Economic Affairs Service, Inc., (IDEAS), Docket No. 4(268)88, ACN: 08–60501

IDEAS appealed a final letter of determination issued by the Grants and Contracts Service (GCS). The underlying audit reviewed eight grants from the Department that were administered by IDEAS during the five years ending October 31, 1985.

GCS determined that improper costs were applied against the grants: costs were incurred after the grant period; and costs charged to the grant exceeded the costs which were incurred.

The Department seeks a refund of $65,983. IDEAS disputes all liability.

Appeal of the Illinois State Library, Docket No. 5(269)88, ACN: 05–75137

The State Library appealed a final letter of determination issued by the Assistant Secretary for Educational Research and Improvement. The underlying single-State audit reviewed costs charged under the Library Services and Construction Act (LSCA) for the period July 1, 1984 through June 30, 1986.

The Assistant Secretary sustained the audit findings that the State Library used LSCA funds to benefit non-public libraries, and the State Library failed to recover scholarships from those recipients who refused to pursue careers in public library administration.

The Departent seeks repayment of $1,786,278. The State Library denies all liability.

Intervention

Regulations in 34 CFR 78.43 provide that an interested person, group or agency may file an application to the Board Chairman to intervene in an appeal before the Board.

An application to intervene must indicate to the satisfaction of the Board Chairman or, as appropriate, the Panel Chairperson, that the potential intervenor has an interest in, and information relevant to, the specific issues raised in the appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

Applications to intervene, or questions, should be addressed to the Board Chairman at the address provided above.

(20 U.S.C. 1234)

(Catalog of Federal Domestic Assistance No. not applicable)

Dated: April 13, 1988.

Michelle Easton,

Acting Deputy Under Secretary, Intergovernmental and Interagency Affairs.

[FR Doc. 88–8504 Filed 4–18–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88-14-NG]

Natural Gas Marketing Services Cooperative Association Inc., Application To Import Natural Gas From Canada

AGENCY: Department of Energy Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on March 21, 1988, of an application filed by Natural Gas Marketing Services Cooperative Association Inc. (NGMS) for blanket authorization to import up to a maximum of 3.6 Bcf of natural gas from a variety of Canadian suppliers over a two-year term beginning on the date of first delivery.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than May 19, 1988.

FOR FURTHER INFORMATION CONTACT:
John Boyd, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4523.
Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: NGMS is a Pennsylvania corporation and a wholly owned subsidiary of Fox Oil and Gas, Inc. NGMS intends to utilize existing facilities of U.S. and Canadian pipelines for the transportation of its imported gas supplies.

NGMS requests that an authorization be granted on an expedited basis. An ERA decision on MGMS's request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Divsion, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., May 19, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of NGMS's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 12, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–8579 Filed 4–18–88; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for clearance to the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in new or revised regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) collection number(s); (3) current OMB docket number (if applicable); (4) collection title; (5) type

of request, e.g., new, revision, or extension; (6) frequency of collection; (7) response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) affected public; (9) an estimate of the number of respondents per report period; (10) an estimate of the number of responses annually; (11) annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and (12) a brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed by May 19, 1988.

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards, at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Carole Patton, Office of Statistical Standards (EI–70), Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2222.

SUPPLEMENTARY INFORMATION: If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, you should advise the OMB DOE Desk Officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084.

The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission.
2. FERC–549.
3. 1902–0086.
4. NGPA Title III Transactions.
5. Extension.
6. On Occasion.
7. Mandatory.
8. Businesses or other for profit.
9. 294 respondents.
10. 4,900 responses.
11. 13,230 hours.
12. The purpose of this application and filing requirement is to ensure that fair and equitable rates are charged for certain transportation and sales transactions in accordance with Title III of the Natural Gas Policy Act. Respondents are natural gas pipeline companies.

Statutory Authority: Secs. 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Energy Administration Act of 1974, (15 U.S.C. 764(a), 764(b), 772(b) and 790(a)).

Issued in Washington, DC, April 14, 1988.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 88–8578 Filed 4–18–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. EC88–17–000, et al.]

Gulf States Utilities Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 15, 1988.

Take notice that the following filings have been made with the Commission:

1. Gulf States Utilities Company

[Docket No. EC88–17–000]

Take notice that on April 6, 1988, Gulf States Utilities Company (Gulf States) tendered for filing an application seeking an order pursuant to section 203 of the Federal Power Act authorizing the sale of a substation by Gulf States to the Department of Energy (DOE). This facility serves the DOE's Strategic Petroleum Reserve located in Hackberry, Louisiana.

Comment date: May 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Public Serivce Company

[Docket No. ES88–34–000]

Take notice that on April 5, 1988, Iowa Public Service Company filed its application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order (1) authorizing it to issue and sell, in one or more public offerings or private placements, prior to April 30, 1990, fixed rate debt in the form of secured First Mortgage Bonds in aggregate principal amount of not more than $60,000,000 and (2) exempting the issuance from competitive bidding pursuant to 18 CFR 34.2(b)(2).

Comment date: May 4, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Patrick J. Chambers, Jr.

[Docket No. ID–1719–002]

Take notice that on April 6, 1988, Patrick J. Chambers, Jr. tendered for filing a supplemental application for authorization under section 305(b) of the Federal Power Act and Part 45 of the Regulations of the Federal Energy Regulatory Commission to hold the following interlocking positions:

Position	Corporation	Classification
Director, Senior Vice President and Chief Financial Officer.	Orange and Rockland Utilities, Inc.	Public Utility.
Director, Senior Vice President and Chief Financial Officer.	Rockland Electric Company.	Public Utility.
Director, Senior Vice President and Chief Financial Officer.	Pike County Light & Power Company.	Public Utility.
Director	Midlantic National Bank/North.	National Banking Association—Affiliate of Authorized Foreign Underwriter.

Comment date: May 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. John Stavropoulos

[Docket No. ID–2336–000]

Take notice that on April 8, 1988, John Stavropoulos tendered for filing an application for authorization under section 305(b) of the Federal Power Act and Part 45 of the Regulations of the Federal Energy Regulatory Commission to hold the following positions:

Position	Corporation
Director	Central Illinois Public Service Company.
Director	First Chicago Corporation.
Director	First National Bank of Chicago.

Comment date: May 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Arizona Public Service Company

[Docket No. EC88–16–000]

Take notice that on April 7, 1988, Arizona Public Service Company (APS) tendered for filing an application for sale of certain electrical facilities, generally including 5¾ miles of a 69kV transmission line, conductors and poles to Salt River Project Agricultural Improvement and Power District (District). APS is constructing a 230kV line to serve the area, and the ownership of the facilities by Company is no longer necessary. District is able to utilize the facilities instead of Company's removing them. No customer of either party will be affected by the proposed sale.

A request for reduction in filing fee from $10,300 to $3,930 has been sought due to the small amount involved in the sale, approximately $110,000, and the minimal time which should be required to review this Application.

Copies of the filing were served upon the District and the Arizona Corporation Commission. Approval of the filing is requested as soon as possible, but in no event later than forty-five (45) days from the filing date.

Comment date: May 2, 1988, in accordance with Standard Paragraph E at the end of this document.

6. Central Vermont Public Service Corporation, Lyndonville Electric Department, Village of Johnson Water and Light Department, and Village of Hyde Park Water and Light Department

[Docket No. EL88-19-000]

Take notice that on April 6, 1988, Central Vermont Public Service Corporation (Central Vermont or the Company), Lyndonville Electric Department, Village of Johnson Water and Light Department, and Village of Hyde Park Water and Light Department (the Villages) tendered for filing, pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.207(a)(2)), a joint petition for a Declaratory Order. The petitioners request the Commission to resolve a controversy between the Company and the Villages over whether the Villages are required by their contracts with the Company, which are filed rate schedules, to take and pay, after November 1, 1988, for amounts of power they have previous designated to be proved to them after that date under procedures described under the contracts; or whether, instead, the notice of termination of the Contracts filed by the Company relieves the Villages of any obligation to take and pay for such capacity and energy.

Comment date: May 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Kansas City Power & Light Company

[Docket No. ES88-35-000]

Take notice that on April 6, 1988, Kansas City Power & Light Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, to issue not more than $300 million of Short-Term Debt and Instruments on or before June 30, 1990, which would mature no later than June 30, 1991.

Comment date: May 5, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-8563 Filed 4-18-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER88-328-000 et al.]

Tucson Electric Power Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 14, 1988.

Take notice that the following filings have been made with the Commission:

1. Tucson Electric Power Company

[Docket No. ER88-328-000]

Take notice that on April 6, 1988, Tucson Electric Power Company (Tucson) tendered for filing an Interconnection Agreement (Agreement) between Tucson and the City of Anaheim, California. The primary purpose of the Agreement is to establish the terms and conditions for the interconnection of the electrical systems of Tucson and the City of Anaheim and the exchange of economy energy, emergency assistance energy, and banked energy between the two systems. Tucson states that services may be provided under Service Schedule A to the Agreement entitled "Economy Energy Interchange," Service Schedule B entitled "Emergency Assistance," or Service Schedule C entitled "Banked Energy."

Tucson requests an effective date of February 16, 1988, and therefore requests waiver of the Commission's notice requirements.

Tucson states that copies of the filing were served upon the City of Anaheim.

Comment date: April 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Portland General Electric Company

[Docket No. ER88-278-000]

Take notice that on April 7, 1988, Portland General Electric Company (Portland) tendered for filing an amendment to its filing made by its letter dated March 1, 1988 in order to provide cost data in support of the rate proposed in the Amendment to the PGE Rate Schedule FERC No. 22, the Agreement entitled Pacific-Portland Sales and Exchange Agreement dated August 25, 1972, between Pacific Gas and Electric Company and Portland.

Portland requests, if necessary, a waiver of the Commission's notice requirements in order to begin service under the Amendment on May 1, 1988.

Copies of the filing have been served upon Pacific Gas and Electric Company, Southern California Edison Company, the Oregon Public Utility Commission and the California Public Utilities Commission.

Comment date: April 28, 1988, in accordance with Standard Paragraph E at the end of this document.

3. Public Service Company of New Mexico

[Docket Nos. ER88-242-000 and ER88-274-000]

Take notice that on April 8, 1988, Public Service Company of New Mexico tendered for filing a supplement to the incremental charge for energy and up to charge for demand.

A copy of this filing has been served upon all parties affected by this proceeding.

Comment date: April 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Idaho Power Company

[Docket No. ER88-330-000]

Take notice that on April 7, 1988, Idaho Power Company (Idaho Power Company) tendered for filing the Average System Cost (ASC) determined by the Bonneville Power Administration (BPA), BPA's written ASC report, and Idaho Power's ASC schedules (Appendix 1) for Idaho Power's Idaho exchange jurisdiction. Idaho Power also submitted its agreement with and/or objections to BPA's Average System Cost determination.

The ASC rates filed have been determined pursuant to the Revised Average System Cost Methodology approved by the Commission in its Order No. 400 issued October 1, 1984 in Docket No. RM84-16-000, and section

5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 830–839h). This act provides for the exchange of electric power between Idaho Power and BPA for the benefit of Idaho Power's residential and farm customers.

A copy of the filing has been served upon BPA and all parties to Idaho Power's Appendix 1 filing with BPA.

Comment date: April 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Gulf States Utilities Company

[Docket No. ER86–558–017]

Take notice that on March 10, 1988, Gulf States Utilities Company (Gulf States) tendered for filing a compliance and refund report. Gulf States states that the total amount of refunds to the Sam Rayburn Dam Electric Cooperative, Inc., Sam Rayburn G&T, Inc. and Say Rayburn Municipal Power Agency was $1,508,557.86.

A copy of this filing has been served upon all parties affected by this proceeding.

Comment date: April 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Ohio Edison Company

[Docket No. ER88–329–000]

Take notice that on April 6, 1988, Ohio Edison Company (Ohio Edison) tendered for filing proposed rates for full requirements service to twenty municipal wholesale customers and partial requirements service to the City of Oberlin, said customers currently taking service through American Municipal Power-Ohio, Inc. (AMP-Ohio) under FERC Rate Schedule No. 150. This filing is pursuant to Article III of the Settlement Agreement among the Company, AMP-Ohio, and the municipal wholesale customers of Ohio Edison (WCOE), as approved by the Commission on March 24, 1984 in Case No. ER80–454, et al., 26 FERC Sec. 61,359.

Ohio Edison states that the proposed changes would result in increased revenues of $6.8 million for full and partial requirements service to jurisdictional customers based upon data for the twelve month period ending December 31, 1988 as filed herein.

Ohio Edison proposes an effective date of October 1, 1988.

Ohio Edison further states that the reason for the proposed increase is that rates for service to its municipal wholesale customers are no longer just and reasonable, being below the cost of providing service to these customers, inadequate to provide a basis for attracting capital on reasonable terms, and inadequate to provide a return on new generating facilities added in part to serve wholesale customers.

According to Ohio Edison, copies of the filing were served on the Company's jurisdictional customers affected by the proposed changes and the Public Utilities Commission of Ohio.

Comment date: April 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company

[Docket No. ER88–331–000]

Take notice that on April 11, 1988, Pacific Gas and Electric Company (PG&E) tendered for filing revised rate schedules from firm system sales to the cities of Anaheim, Azusa, Banning, Colton, and Riverside (Southern Cities).

The agreements between PG&E and the Southern Cities require an annual recalculation of rates for electric capacity. These rates are an average of the Southern Cities' partial requirements capacity rates from Southern California Edison Company (SCE) and PG&E's incremental costs of providing service. PG&E's costs are unchanged, but the SCE rates have decreased, resulting in lower capacity rates from PG&E.

PG&E has requested waivers to allow these rate schedule changes to be made effective, retroactively, on March 1, 1988.

Copies of this filing have been served upon the Southern Cities and the California Public Utilities Commission. In addition, copies of this filing are available for public inspection in a convenient form and place during normal business hours at PG&E's General Office in San Francisco.

Comment date: April 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Power & Light Company, an assumed business name of PacifiCorp

[Docket No. ER88–327–000]

Take notice that on April 5, 1988, Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp tendered for filing, accordance with § 35.12 of the Commission's Regulations, a Letter Agreement, Contract No. DE–MS79–88BP92402, between Pacific and Bonneville Power Administration (Bonneville). The Letter Agreement provides for temporary transfer service across Pacific's Libby substation to enable Bonneville to serve its City of Troy, Montana load.

Pacific requests, pursuant to § 35.11 of the Commission's Regulations, that a waiver of prior notice be granted and that an effective date of December 14, 1987, corresponding to the commencement of service by Pacific, be assigned to the Letter Agreement.

Copies of this filing have been supplied to Bonneville Power Administration and to the Montana Public Service Commission.

Comment date: April 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

9. Douglas W. Booth

[Docket No. ID–2335–000]

Take notice that on April 6, 1988, Douglas W. Booth tendered an application for authorization under section 305(b) of the Federal Power Act to hold the following positions:

Position	Corporation
President, Chief Operating Officer and Director.	Duke Power Company.
Director	Barclays American Corporation.

Comment date: April 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–8483 Filed 4–18–88; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3863–001]

Floyd N. Bidwell; Availability of Environmental Assessment

April 13, 1988.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory

Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydro Licensing has reviewed the application for major license for the proposed Lost Creek No. 1 Hydroelectric Project on Lost Creek in Shasta County, California, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Acting Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Please affix Project No. 3863–001 to all comments. For further information, please contact Tom Camp, Environmental Assessment Coordinator, at (202) 376–9801.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–8487 Filed 4–18–88; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 3021–016, et al.]

Hydroelectric Applications (Allegheny Electric Co-op., Inc., 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:* Transfer of License.

b. *Project No.:* 3021–016.

c. *Date Filed:* November 23, 1987.

d. *Applicant:* Allegheny Electric Cooperative, Inc. (licensee), Allegheny Hydro No. 8, L.P., and Allegheny Hydro No. 9, L.P. (transferees).

e. *Name of Project:* Allegheny River Locks and Dams Nos. 8 and 9.

f. *Location:* On the Allegheny River in Armstrong County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:*

Mr. Anthony C. Adonizio, Deputy General Counsel, Allegheny Electric Cooperative, Inc., P.O. Box 1266, Harrisburg, PA 17108

Mr. Bruce Wrobel, Allegheny Hydro No. 8, L.P., 885 Third Avenue—Suite 3040, New York, NY 10022

Mr. Bruce Wrobel, Allegheny Hydro No. 9, L.P., 885 Third Avenue—Suite 3040, New York, NY 10022

i. *FERC Contract:* Michael Dees (202) 376–9830.

j. *Comment Date:* May 13, 1988.

k. *Description of Transfer:* On November 23, 1987, Allegheny Electric Cooperative, Inc. (licensee), Allegheny Hydro No. 8, L.P., and Allegheny Hydro No. 9, L.P. (transferres), filed a joint application for transfer of the major license for the Allegheny River Locks and Dams Nos. 8 and 9 Project No. 3021. The proposed transfer will not result in any changes in the project. The transferees state that they would comply with all the terms and conditions of the license.

l. *This notice also consists of the following standards paragraphs:* B and C.

2 a. *Type of Application:* Surrender of License.

b. *Project No.:* 3307–007.

c. *Date Filed:* January 11, 1988.

d. *Applicant:* Tionesta Associates.

e. *Name of Project:* Tionesta Lake.

f. *Location:* On Tionesta Creek in Forest County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert L. Winship, 99 Bedford Street, Boston, MA 02111, (617) 357–9029.

i. *FERC Contract:* Michael Dees (202) 376–9830

j. *Comment Date:* May 12, 1988.

k. *Description of Project:* On January 26, 1984, a license was issued to construct, operate, and maintain the Tionesta Lake Project No. 3307 at the U.S. Army Corps of Engineers' Tionesta Dam. The project would consist of: (1) A 125-foot-long steel liner to be installed in the downstream end of the Corp's 1,875-foot-long, 19-foot-diameter concrete outlet tunnel; (2) a 40-foot-long, 12-foot-diameter steel penstock; (3) a 74-foot by 38-foot concrete powerhouse containing one generating unit with an installed capacity of 5.0 MW; (4) a 90-foot-long, 24-foot-wide tailrace channel; (5) a stilling basin; (6) a 1-mile-long, 34.5-kV transmission line; and (7) appurtenant facilities.

Licensee states that no construction occurred and that the project is no longer economically feasible because of the high cost to wheel energy to a purchaser.

On December 20, 1985, the deadline for the start of project construction was extended two years to January 25, 1988. No further extensions are allowed by the Federal Power Act.

l. *This notice also consists of the following standards paragraphs:* B and C.

3 a. *Type of Application:* Surrender of License.

b. *Project No.:* 7042–007.

c. *Date Filed:* February 12, 1988.

d. *Applicant:* Cities of Minden, Natchitoches, and Ruston, Louisiana.

e. *Name of Project:* John H. Overton Lock and Dam No. 2.

f. *Location:* On the Red River in Rapides Parish, Louisiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ralph L. Laukhuff, Jr., Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, LA 70896, (504) 927–9321.

i. *FERC Contact:* Eddie Lee (202) 376–9828.

j. *Comment Date:* May 12, 1988.

k. *Description of Application:* The license for this project was issued June 20, 1985, for an installed capacity of 25.5 MW. The licensees state that it has determined that the project would be economically infeasible. No construction has commenced at the project site.

l. *This notice also consists of the following standard paragraphs:* B and C.

4 a. *Type of Application:* Amendment of License.

b. *Project No.:* 8296–005.

c. *Date Filed:* December 1, 1987.

d. *Applicant/Licensee:* Malacha Power Project, Incorporated.

e. *Name of Project:* Muck Valley Hydroelectric Project.

f. *Location:* On Pit River, in Lassen County, California; partially on the U.S. Bureau of Land Management lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert Mooney, President, Malacha Power Project, Inc., 1555 Shoreline Drive, Suite 100, Boise, ID 83702.

i. *FERC Contact:* Mr. Ahmad Mushtaq, (202) 376–1900.

j. *Comment Date:* May 13, 1988.

k. *Description of Proposed Action:* The licensee seeks Commission authorization to modify its originally licensed 16-mile-long transmission line by (a) utilizing a 1.9-mile-long segment of the original line, and (b) re-routing and lengthening the remaining portion to 16.1 miles along a new alignment.

l. *This notice also consists of the following standard paragraphs:* B and C.

5 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10549–000.

c. *Date Filed:* February 26, 1988.
d. *Applicant:* Chasm Hydro, Inc.
e. *Name of Project:* Fort Covington Dam.
f. *Location:* On the Salmon River in Franklin County, New York.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Mr. John H. Dowd, Box 319, Chateaugay, New York 12920, (518) 371–4299.
i. *FERC Contact:* Steven H. Rossi, (202) 376–9814.
j. *Comment Date:* June 3, 1988.
k. *Description of Project:* The proposed project would consist of: (1) An existing 20.5-foot-high, 257-foot-long concrete gravity dam; (2) a reservoir with a surface area of 14.3 acres, a storage capacity of 45 acre-feet, and a normal water surface elevation of 156 feet m.s.l.; (3) two existing 6.75-foot by 8.5-foot intake gates; (4) a new powerhouse containing one generating unit with a capacity of 425 kW; (5) a new transmission line, 100 feet long; and (6) appurtenant facilities. The applicant estimates the average annual generation would be 2,200,000 kWh. The existing dam is owned by Northern Hydro Consultants, Inc., Chateaugay, New York. The applicant estimates that the cost of the studies under permit would be $36,750.
l. *Purpose of Project:* Project power would be sold to Niagara Mohawk Power Corporation.
m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

6 a. *Type of Application:* New Minor License.
b. *Project No.:* 2388–001.
c. *Date Filed:* July 23, 1987.
d. *Applicant:* The City of Holyoke, Gas & Electric Department.
e. *Name of Project:* Number 3 Hydro Unit.
f. *Location:* First and Second Level Canals of the Holyoke Canal Systems off the Connecticut River in Hampden County, Massachusetts.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).
h. *Applicant Contact:* Mr. George E. Leary, The City of Holyoke, Gas & Electric Department, 70 Suffolk Street, Holyoke, MA 01040, (413) 536–9311.
i. *FERC Contact:* Steven H. Rossi (202) 376–9814.
j. *Comment Date:* June 2, 1988.
k. *Description of Project:* The existing operating project commenced operation in 1940 and was issued an initial license in 1965, which will expire in 1990. The licensee has filed for a new license for the continued operation of the project. The existing project consists of: (1) An intake trashrack about 47 feet long and 11 feet high covering an opening in the Holyoke Second Level Canal; (2) two headgates about 11 feet square; (3) two low pressure brick penstocks each about 85 feet long and 93 square feet in cross section; (4) a reinforced concrete powerhouse about 42 feet long, 34 feet wide, and 28 feet high, housing one turbine-generator unit rated at 450 kW with an average head of 12.5 feet; (5) an open tailrace about 118 feet long, 29.7 feet wide, and 10 feet deep; (6) 4.8–kV generator leads that connect directly to the 4.8–kV area distribution system; and (7) appurtenant facilities. The project generates an average of 2,466 MWh annually.
l. *Purpose of Project:* Project power would continue to be sold to the customers of the City of Holyoke, Gas and Electric Department.
m. *This notice also consists of the following standard paragraphs:* B and C.

7 a. *Type of Application:* Surrender of License.
b. *Project No.:* 7043–006.
c. *Date Filed:* February 2, 1988.
d. *Applicant:* Cities of Minden, Natchitoches, and Ruston, Louisiana.
e. *Name of Project:* Red River Lock and Dam No. 1.
f. *Location:* On the Red River in Avoyelles and Catahoula Parishes, Louisiana.
g. *Filed Pursuant to:* Federal Power Act, 16, U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Mr. Ralph L. Laukhuff, Jr., Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, LA 70896, (504) 927–9321.
i. *FERC Contact:* Ed Lee on (202) 376–9828.
j. *Comment Date:* May 13, 1988.
k. *Description of Application:* The license for this project was issued on August 30, 1985, for an installed capacity of 18 MW. The licensees state that it has determined that the project would be economically infeasible. No construction has commenced at the project site.
l. *This notice also consists of the following standard paragraphs:* B and C.

8 a. *Type of Application:* Surrender of License.
b. *Project No.:* 8350–004.
c. *Date Filed:* December 31, 1987.
d. *Applicant:* Littleville Power Company, Inc.
e. *Name of Project:* Littleville Dam Project.
f. *Location:* On the Middle Branch of the Westfield River in Hampden and Hampshire Counties, Massachusetts.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C 791(a)–825(r).
h. *Applicant Contact:* Mr. John J. Furman, Littleville Power Company, Inc., 36 Canal Drive, Westfield, Massachusetts 01085, (413) 568–6510.
i. *FERC Contact:* Steven H. Rossi, (202) 376–9814.
j. *Comment Date:* May 18, 1988.
k. *Description of Proposed Surrender:* The proposed project would have utilized the U.S. Army Corps of Engineers' Littleville Dam and would have consisted of : (a) A bifurcation at the existing water supply conduit; (b) a 4-foot-diameter and 52-foot-long steel penstock; (c) a powerhouse with 2 turbine-generator units with installed capacities of 800 kW and 260 kW; (d) a 200-foot-long tailrace channel; (e) 0.48-volt generator leads, a 0.48/23–kV, 1.5–MVA step-up transformer, a 23–kV and 3,500-foot-long transmission line; and (f) other appurtenances necessary to connect the project to the Western Massachusetts Electric Company's system. The proposed project would have generated up to 3,050,000 kWh annually.

The licensee states that due to delays in obtaining a long-term power sales contract, it wishes to surrender its license.
l. *This notice also consists of the following standard paragraphs:* B, C and D2.

9 a. *Type of Application:* Preliminary Permit.
b. *Project No.:* 10543–000.
c. *Date Filed:* February 16, 1988.
d. *Applicant:* Public Utility District No. 1 of Asotin County.
e. *Name of Project:* Asotin Hydroelectric Project.
f. *Location:* At mile 146.8 on the Snake River in T6, 7, 8, 9, 10N, R46 and 47E near Asotin in Asotin County, Washington, and Nez Perce County, Idaho.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).
h. *Applicant Contact:* Mr. Scott C. Broyles, P.O. Box 208, Clarkston, WA 99403, (509) 785–1636.
i. *FERC Contact:* Ms. Julie Bernt, (202) 376–1936.
j. *Comment Date:* May 19, 1988.
k. *Competing Application:* Project No. 10530; Date Filed: December 23, 1987; Due Date: April 11, 1988.
l. *Description of Project:* The proposed project would consist of: (1) A 160-foot-high dam at elevation 868 msl; (2) an ogee-shaped 370-foot-wide spillway at elevation 792.5 feet msl; (3) a reservoir with a normal pool elevation of 842.5 feet msl, a surface area of 3,900 acres, and a storage area of 250,000 acre-feet; (4) a powerhouse which forms the right side of the dam and which contains four generating units each with a rated capacity of 96 MW; and (5) a 1.9-mile-

long transmission line. Applicant estimates the average annual energy production to be 1,708 GWh and the cost of the work to be performed under the preliminary permit to be $40,000.

m. *Purpose of Project:* Power produced would be marketed through a consortium of regional utilities.

n. *This notice also consists of the following standard paragraphs:* A8, A10, B, C and D2.

Standard Paragraphs

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 specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a 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 Rules of Practice and Procedure, 18 CFR 385.210, 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: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: 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.

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.

Dated: April 14, 1988.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–8562 Filed 4–18–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP88–329–000 et al.]

United Gas Pipe Line Co. et al.; Natural Gas Certificate Filings

April 14, 1988.

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP88–329–000]

Take notice that on April 4, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP88–329–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the implementation of two new services for its distribution customers under rate schedules GO and FRO and in addition, offer all of its firm sales customers the option to convert up to 100 percent of their firm sales entitlements to firm transportation service on an expedited basis pursuant to rate schedule ACO, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that concurrent with this certificate application, it has proposed in Docket No. RP88–92–000 to eliminate or discontinue enforcing the "full requirements" provisions contained in currently effective service agreements as of the date the proposed tariff sheets are allowed to become effective. It is asserted that service under the proposed rate schedule FRO (full requirements

option) would entitle customers that commit to purchase all of their gas supply requirements from United to be charged for that service based upon a one-part volumetric rate. Rate schedule FRO service would be available only for customers whose single non-coincidental peak day purchases over the past three years have not exceeded 7,000 Mcf. United avers that it would be obligated to provide FRO coustomers with all of their gas requirements. It is stated that service under the proposed rate schedule GO (G Optional) would be available to United's existing customers served under rate schedules G-S/G-N and would entitle a customer to receive either sales or transportation service from United up to that customer's Current Entitlement Quantity (CEQ) nomination at a rate that would make United economically indifferent as to whether such customers purchase or transport gas.

United is also proposing to offer all of its firm jurisdictional sales customers the option to convert their firm sales entitlement to firm transportation service by a percentage greater than that provided for under current Commission regulations. It is stated that the new service under proposed rate schedule ACO (Accelerated Conversion Option) would allow United's firm jurisdictional sales customers to convert up to 100 percent of their firm sales entitlements to firm transportation service on an expedited basis, contingent upon the customer's agreement to remain responsible for certain transition costs and subject to certain operating conditions. It is averred that the customers would also have the right to convert ACO service to firm transportation services under rate schedule FTS, under the same increments and intervals as are provided by the Commission's Order No. 436 regulations for the conversion of firm sales to firm transportation service.

United has further requested that this certificate filing be consolidated with its March 31, 1988, rate filing in Docket No. RP88-92-000. It has also requested that the Commission expeditiously act upon this application, or, alternatively, authorize United to commence service under the proposed rate schedules on a temporary basis on the date the tariff sheets incorporated in Docket No. RP88-92-000 are followed to be made effective.

Comment date: April 25, 1988, in accordance with Standard Paragraph F at the end of this notice.

2. Northwest Pipeline Corporation

[Docket No. CP88-323-000]

Take notice that on March 31, 1988, Northwest Pipeline Corporation (Northwest), P.O. Box 8900, Salt Lake City, Utah 84108-0900, filed in Docket No. CP88-323-000 an application pursuant to section 7(c) of the National Gas Act (NGA) and the Regulations thereunder for a blanket certificate of public convenience and necessity authorizing Northwest to provide discounted gathering services as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest states that by order of March 1, 1988, in Docket No. RP86-57-003, the Commission required Northwest to obtain a certificate under section 7(c) of the NGA before commencing discount gathering service under Northwest's revised Sheet No. 2-B of Northwest's FERC Gas Tariff, Volume No. 2, which the Commission previously had accepted for filing by Letter Order dated July 23, 1986.

Northwest states that in compliance with the order of March 1, 1988, it requests authorization to provide discounted gathering services pursuant to section 7(c) of the NGA and in accordance with Sheet No. 2-B of Northwest's FERC Gas Tariff, Original Volume No. 2. Further, Northwest states that since the Commission gave no indication prior to its March 1, 1988, order, that a section 7(c) certificate was required for Northwest's discount gathering services, Northwest requests that the Commission grant the required section 7(c) authorizations retroactively to the date Northwest implemented its discount gathering rate proposal, namely July 24, 1986.

Comment date: May 5, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraph

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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 a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without futher notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-8554 Filed 4-18-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-100-000]

Commercial Pipeline Company, Inc.; Request for Waiver of Purchased Gas Adjustment Requirements or, in the Alternative, Request for Waiver of Certain Requirements

April 13, 1988.

Take notice that on April 5, 1988, Commercial Pipeline Company, Inc. (Commercial) filed a request for waiver of the regulations and requirements established by Commission Order Nos. 483 and 483-A in order to permit Commercial to operate under its existing purchased gas adjustment (PGA) clause pending approval of the "Joint Abbreviated Application of Greeley Gas Company to Acquire and Operate Facilities and Commercial Pipeline Company, Inc. to Abandon Facilities and Service" filed on March 31, 1988. Commercial states that that acquisition and abandonment application requests, *inter alia*, the cancellation of Commercial's FERC Gas Tariff, which includes Commercial's PGA mechanism, and expedited consideration by the Commission in order to obtain approval of that application by July 31, 1988. Therefore, Commercial requests a total waiver of the Order No. 483 PGA regulations because of the anticipated

elimination of Commercial's tariff and PGA clause.

If the Commission does not grant Commercial a total waiver of the new PGA requirements, Commercial requests waiver of: (1) The requirement that Commercial make a June 1, 1988 transition filing and a July 1, 1988 quarterly filing; (2) Order Nos. 483 and 483–A to the extent necessary to permit Commercial to keep in effect rates filed in Docket No. TA88–2–44 to be effective May 1, 1988; (3) the requirement that Commercial's PGA filings be made on 9-track magnetic computer tape; and (4) the filing fee required to accompany the May 1, 1988 filing of new terms and conditions to Commercial's FERC Gas Tariff necessary to implement Order Nos. 483 and 483–A.

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 April 20, 1988. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–8484 Filed 4–18–88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3115–002 California]

Merced Irrigation District; Surrender of Exemption

April 15, 1988.

Take notice Merced Irrigation District exemptee for the proposed Escaladiam Project No. 3115, has requested that its exemption be terminated. The exemption was issued on November 10, 1980. The project would have been located at Escaladiam Canal, in Merced County, California. No construction has commenced at this project.

The Exemptee filed the request on February 4, 1988, and the exemption for Project No. 3115 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–8486 Filed 4–18–88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI88–89–000]

Valence Operating Co., et al; Joint Application for Permanent Abandonment

April 15, 1988.

Take notice that on November 2, 1987, as supplemented on December 17, 1987, and January 7 and 29, February 17 and March 1, 1988, Valence Operating Company, *et al.*, Kaiser-Francis Oil Company, Chevron U.S.A. Inc. and J. M. Huber Corporation (Applicants),[1] filed an application pursuant to section 7(b) of the Natural Gas Act and § 2.77 of the Commisison's rules requesting permanent abandonment of their sales of gas to Panhandle Eastern Pipe Line Company (Panhandle) from Section 6 and 18, T24N–R13W, and Sections 31 and 32, T25N.R13W, Woods County, Oklahoma. Applicants are also requesting three-year limited-term pregranted abandonment authority to allow Applicants or their new purchaser to change resale purchasers as interstate spot market contracts expire or are terminated.

In support of their joint application Applicants that they are suffering substantially reduced takes without payment from Panhandle. In May and June of 1987, according to Applicants, Panhandle purchased approximately 1.5% to 2% of the producing capacity of the wells. Applicants state that the wells are no longer able to meet the line pressure in Panhandle's system on a consistent, economic basis and neither party can justify the expense of compression facilities. Applicants propose to sell the gas under a percentage-of-proceeds contract to Union Texas Products Corporation (Union Texas). Applicants state that Union Texas operates a low pressure pipeline facility in the vicinity which is connected to a Union Texas processing plant. According to Applicants, residue gas attributable to their gas will be resold by Union Texas at the tailgate of its plant in the spot market primarily in interstate commerce. Applicants state that the requested abandonment authorization is part of a package settlement which they have reached with Panhandle. Applicants state that they have agreed not to pursue claims for past take-or-pay liability under the contracts in return for a complete and permanent release of the gas. Applicants state that deliverability of the gas involved in the abandonment request is approximately 1,300 Mcf/day and that such gas is NGPA section 104 flowing gas.

Applicants request that their application be considered on an expedited basis under procedures established by Order No. 436, Docket No. RM85–1–000, at 18 CFR 2.77.[2]

Since Applicants have requested that their application be considered on an expedited basis, all as more fully described in the application which is on file with the Commission and open to public inspection, any person desiring to be heard or to make any protest with reference to said application 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 a proceeding 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

[1] The *et al.* party to Valence Operating Company's application is Davon Drilling Company, a non-signatory party to Valence's contract with Panhandle. The joint applicants are Kaiser-Francis Oil Company, which operates under a small producer certificate in Docket No., CS73–605, and Chevron U.S.A. Inc. and J. M. Huber Corporation, which sell gas pursuant to large producer certificates in Docket Nos. CI64–526 and CI64–197, respectively.

[2] The United States Court of Appeals for the District of Columbia vacated the Commission's Order No. 436 on June 23, 1987. In vacating Order No. 436, the Court rejected challenges to the Commission's statement of policy in § 2.77 of its Regulations. Section 2.77 states that the Commission will consider on an expedited basis applications for certificate and abandonment authority where the producers assert they are subject to substantially reduced takes without payment or where the parties have entered into a take-or-pay buy-out pursuant to § 2.76. On August 7, 1987, the Commission issued Order No. 500 which promulgated interim regulations in response to the court's remand (40 FERC § 61,172 (1987)). These interim regulations became effective on September 15, 1987.

unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-8485 Filed 4-18-88; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

TITLE OF INFORMATION COLLECTION: Transfer Agent Registration and Amendment Form (OMB No. 3064-0026).

BACKGROUND: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for the review and approval of the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429.

COMMENTS: Comments on this collection of information should be submitted on or before May 19, 1988.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

SUMMARY: The FDIC is requesting OMB approval to revise form TA-1 used by an insured nonmember bank to register with the FDIC as a transfer agent as required by the Securities Exchange Act of 1934 (15 U.S.C. 78q). The proposed changes pertain only to the style and format of the form. There are no changes in the form's data content. The changes are expected to ease the preparation of the form.

The aggregate annual reporting burden imposed on insured nonmember banks in using the revised form is 14 hours.

Dated: April 14, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88-8586 Filed 4-18-88; 8:45 am]

BILLING CODE 6714-01-M

Privacy Act of 1974; Publication of New System of Records

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of establishment of New System of Records: "Insured Bank Liquidation Records."

SUMMARY: The FDIC, when it acts as liquidator or receiver of certain of the assets of a failed insured bank or a failing insured bank provided open-bank assistance by the FDIC, maintains files on individuals who were indebted to the closed or assisted bank or who otherwise had outstanding obligations to the bank. In the opinion of the FDIC, when it is acting as a liquidator or receiver, it is not an agency subject to the Privacy Act of 1974. The FDIC has, however, determined to comply voluntarily with the Privacy Act's requirements and, thus, following a 60-day public comment period, is giving notice of the establishment in final form of a new system of records, entitled "Insured Bank Liquidation Records."

DATE: Effective on October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Robert E. Feldman, Assistant Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429, telephone (202) 898-3811.

SUPPLEMENTARY INFORMATION: The FDIC is establishing a new system of records, pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), concerning records of individuals who had obligations with FDIC-insured institutions that have failed or that were provided open-bank assistance by the FDIC and for which the FDIC is acting in its corporate capacity or in its receivership capacity as liquidator of certain of the institutions' assets. Notice of the proposal to establish the "Insured Bank Liquidation Records" system was published in the **Federal Register** on November 17, 1987 (52 FR 43,943). In addition, a report on the proposal to establish the system was submitted to the Office of Management and Budget ("OMB") and Congress in accordance with OMB requirements.

The Supplementary Information section of the **Federal Register** notice describing the proposal restated the FDIC's position that it is not subject to the Privacy Act as a matter of law when it is acting as liquidator or receiver. However, the FDIC's Board of Directors nevertheless determined that it is sound public policy to comply voluntarily with the Privacy Act's requirements when the FDIC acts as liquidator or receiver. Upon determining to comply voluntarily with the act's requirements, it became necessary to take the appropriate steps to create a system of records related to the credit or loan files held by a failed or assisted institution and FDIC assets files about obligors of those institutions.

The Supplementary Information section also stated that information in the system would be available to an individual covered by the system except to the extent that it has been compiled in reasonable anticipation of a civil action or proceeding, including collection actions or foreclosures, citing 5 U.S.C. 552a(d)(5) for that proposition. Therefore, the conclusion was reached that, for example, where a loan is in default, the FDIC would not disclose to the individual information such as appraisals, analyses of collection strategy or recovery, or legal memoranda. For a fuller explanation of the proposal, the reader is directed to the November 17, 1987, **Federal Register** notice.

The FDIC received two comments from the public in response to the proposal—one from Legal Aid of Western Missouri, St. Joseph, Missouri, the other from Farmers' Legal Action Group Inc., St. Paul, Minnesota. Legal Aid of Western Missouri challenged the FDIC's statement in its proposal "that it is not an agency for purposes of the Privacy Act when it acts as a liquidator or receiver." For the purposes of determining whether to finalize the proposal and establish the "Insured Bank Liquidation Records" system, the issue of whether FDIC is as a matter of law subject to the Privacy Act when it acts as liquidator or receiver is moot. Whether the FDIC as liquidator or receiver is subject to the Privacy Act as a matter of law or whether the FDIC determines to comply voluntary with the act's provisions, the outcome is the same; i.e., it is necessary to establish systems of records, when appropriate, for records held by the FDIC as liquidator or receiver.

Both commenters argued that an individual covered by the system should be entitled to an appraisal of his or her property as a matter of public policy. The commenters also contended that appraisals are not exempt from disclosure under paragraph (d)(5) of the Privacy Act (5 U.S.C. 552a(d)(5)). Paragraph (d)(5) provides that "nothing in the (Privacy Act) shall allow an individual access to any information

compiled in reasonable anticipation of a civil action or proceeding." The exemption differs from the other exemptions permitted by the Privacy Act in that it is "self-executing." In other words, the exemption is effective by virtue of its inclusion in the act. By contrast, the other exemptions may be used only following public notice and comment procedures and inclusion in an agency's Privacy Act rules and regulations. The nature of the paragraph (d)(5) exemption dictates that determinations as to the exempt nature of certain information must be made on a case-by-case basis. The FDIC was simply asserting in the Supplementary Information section of the proposal its conclusion that, as a general rule, appraisals would be exempt under paragraph (d)(5). The contrary assertions of the commenters simply represent their legal interpretations of the paragraph (d)(5) exemption. They do not alter the fact that it is necessary for the FDIC to adopt a system of records to cover records about obligors of failed or assisted institutions held by FDIC as receiver or liquidator in order to be in compliance with the technical record keeping requirement of the Privacy Act. Therefore, the comments concerning paragraph (d)(5) present no bar to the adoption of the system.

Finally, both commenters expressed concerns about the first routine use of the proposed system of records. That routine use provides that information in the system may be disclosed "to prospective purchasers of the individual's obligation(s) for the purpose of informing the prospective purchaser about the nature and quality of obligations to be purchased." The Farmers' Legal Action Group, Inc., states that this could constitute a gross intrusion into an individual's privacy which may be in violation of the Privacy Act's disclosure prohibitions. Both commenters suggest that the routine use be modified so that disclosure can only be made to prospective purchasers after removing identifying information (e.g., name, address, and telephone numbers). In the alternative, Legal Aid of Western Missouri suggests that disclosure be made only with the consent of the individual.

As a matter of current practice, information about loans is provided whenever possible to prospective purchasers in summary fashion only. This means that the FDIC currently routinely eliminates names and other identifying information from material provided to prospective purchasers. There are occasions, however, where a prospective purchaser, in performing with due diligence an analysis of assets to be purchased in order to estimate the risks and rewards associated with buying them, can only confirm the existence of a legally collectible loan when all identifying information, including names, addresses, and telephone numbers have been supplied. Under such circumstances, the FDIC will, after careful analysis, release all necessary information about a loan. The first routine use will continue to permit this type of disclosure to prospective purchasers because such disclosure is self-evidently compatible with the purpose for which the information is requested, therefore satisfying the requirements for routine use established in paragraph (a)(7) of the Privacy Act (5 U.S.C. 552a(a)(7)). As the routine use is a proper routine use, the consent of the individual who is the subject of the record is not required, *See* 5 U.S.C. 552a(b).

Accordingly, after fully considering the comments received in response to the proposal, the FDIC's Board of Directors establishes the following system of records:

FDIC 30-64-0013

SYSTEM NAME:

Insured Bank Liquidation Records.

SYSTEM LOCATION:

Designated FDIC regional offices (liquidation), consolidated field offices, and sites of failed FDIC-Insured institutions. A list of the designated locations is available from the Operations Branch of the FDIC's Division of Liquidation, 550 17th Street, NW., Washington, DC. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who were obligors of FDIC-insured institutions that have failed or that were provided open-bank assistance by the FDIC and for which the FDIC is acting as liquidator or receiver of certain of the institutions' assets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the obligor's credit or loan files held by the closed or assisted institution, which files may include the loan and related documents, correspondence, and bank officer notes; FDIC asset files, including information relating to the obligor's financial condition, such as financial statements, income tax returns, asset or collateral verifications, appraisals, and sources of payment; intra-agency memoranda or notes relating to the liquidation of the obligation; correspondence; and any other documents related to the liquidation of the asset. Records held by the FDIC as receiver are a part of this system only to the extent that the state law governing the receivership is not inconsistent or does not otherwise establish specific requirements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1819, 1821, 1823; applicable state laws governing the liquidation of assets of failed financial institutions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Information in the system may be disclosed:

(1) To prospective purchasers of the individual's obligation(s) for the purpose of informing the prospective purchasers about the nature and quality of obligation(s) to be purchased.

(2) To persons performing services for the FDIC in connection with the liquidation of an individual's obligations, such as appraisers, outside counsel, and collection agencies, and auditing or accounting firms retained to assist in an audit or investigation of FDIC's liquidation activities.

(3) To participants in the obligation in order to fulfill any contractual or incidental responsibilities in connection with the participation agreement.

(4) To Federal or state agencies, such as the Farmers Home Administration, or to financial institutions where information is relevant to an application or request by the individual for a loan, grant, financial benefit, or other entitlement.

(5) To Federal or state agencies, such as the Internal Revenue Service or state taxation authorities, in the performance of their governmental duties, such as obtaining information regarding income, including the reporting of income resulting from a compromise of an obligation.

(6) To apprise courts of competent jurisdiction supervising the FDIC's liquidation or receivership functions of information required by statute to be disclosed to the court and necessary to obtain approvals from the court for the disposal of assets and the disposition of claims and other related issues.

(7) To Federal or state bank examiners for the purposes of examining borrowing relationships in operating banks that may be related to an obligation of an individual covered by this system.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in

the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings.

(9) To the appropriate federal, state, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto.

(10) To a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to 5 U.S.C. 552a(b)(12), to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Maintained in file folders and on computer discs and tapes.

RETRIEVABILITY:

Indexed by name of failed or assisted insured institution and by name of the individual.

SAFEGUARDS:

File folders are stored in lockable file cabinets and/or in secured vault areas accessed only by authorized personnel. Computer records are accesssed only by authorized personnel.

RETENTION AND DISPOSAL:

Credit or loan files of the failed or assisted bank are maintained for the period of time provided under applicable state or Federal laws pursuant to which the FDIC liquidates the obligations. FDIC asset files and information maintained in an online capacity are retained as long as needed.

SYSTEM MANAGER(S) AND ADDRESSES:

The appropriate FDIC regional director (liquidation) for records maintained in FDIC regional offices; the appropriate FDIC Bank Liquidation Specialist-in-Charge for records maintained in consolidated field offices or at the site of a failed or assisted institution.

NOTIFICATION PROCEDURE:

Requests must be in writing and addressed to the Office of the Executive Secretary, 550 17th Street, NW, Washington, DC 20429. The request must contain the individual's name and address and the name and address of the failed or assisted institution at which the individual has an obligation.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual on whom the record is maintained; appraisers retained by the originating bank or the FDIC; investigative and/or research companies; credit bureaus and/or services; references named by the individual; attorneys or accountants retained by the originating bank or the FDIC; participants in the obligation(s) of the individual; officers and employees of the failed or assisted bank; congressional offices that may initiate an inquiry; and other parties providing services to the FDIC in its capacity as liquidator or receiver.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

By direction of the Board of Directors.

Dated at Washington, D.C., this 13th day of April, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88-8582 Filed 4-18-88; 8:45 am]

BILLING CODE 6714-01-M

Proposed Statement of Policy Regarding Independent External Audits of State Nonmember Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Request for comments.

SUMMARY: The FDIC hereby requests comments on a proposed Statement of Policy which is intended to provide more explicit guidance to banks on the position of the Federal Deposit Insurance Corporation regarding independent external audits of state nonmember banks.

DATE: Comments on the proposal must be received by June 20, 1988.

ADDRESS: All comments should be submitted to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, or delivered to Room 6108 at the same address, between the hours of 9:00 a.m. and 5:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Doris L. Marsh, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, telephone (202) 898-6903.

SUPPLEMENTARY INFORMATION: The FDIC believes that a strong auditing program combined with an annual audit of a bank's financial statements by an independent certified public accountant substantially lessens the risk that a bank will not detect potentially serious problems. The large number of financial institutions experiencing financial difficulties as a result of fraud, insider abuse and mismanagement in recent years has made an audit program even more important. The examination staff has for any years been criticizing banks that lack an adequate internal auditing program, and has long encouraged independent external audits. Many banks now supplement their internal auditing programs by obtaining independent external audits voluntarily or as a result of Federal Reserve bank holding company regulations or because of Securities and Exchange Commission requirements. However, a number of banks, particularly smaller institutions, have decided not to have an external audit for various reasons. The FDIC staff has been working to find an economical and practical external review alternative for these banks.

Nevertheless, the FDIC continues to believe in the value of independent external audits for banks and will continue to strongly encourage all banks to obtain them. In an effort to provide more explicit guidance to banks on the FDIC's position with respect to external audits, the FDIC proposes to adopt a Statement of Policy that is similar to the policy of the Office of the Comptroller of the Currency for national banks.

The text of the proposed policy statement follows:

Statement of Policy Regarding Independent External Audits of State Nonmember Banks

1. The FDIC believes that a strong internal auditing program combined with an annual audit of a bank's financial statements by an independent certified public accountant substantially lessens the risk that a bank will not detect potentially serious problems. A strong internal auditing program establishes the proper control environment and promotes accuracy

and efficiency in a bank's operations. The independent external audit complements this program by providing an objective outside view of the bank's operations. A review of both a bank's external audit and internal auditing programs has been and will continue to be a part of the FDIC's examination procedures.

2. An annual external audit by a certified public accounting firm, the FDIC believes, should be considered by a bank's board of directors as part of the cost of operating a bank in a safe and sound manner. An external audit benefits management by assisting in the establishment of appropriate operating policies, internal controls, internal auditing programs, and management information systems. In addition, an audit assists boards of directors in fulfilling their fiduciary responsibilities and provides them greater assurance that financial reports are accurate and provide adequate disclosure.

3. For these reasons, the FDIC strongly encourages all state nonmember banks to engage an independent certified public accounting firm to conduct an audit of their financial statements annually regardless of the nature of their internal auditing procedures. The FDIC believes that a bank can derive the greatest benefits from an audit that is performed in accordance with generally accepted auditing standards and is of sufficient scope to enable the auditor to express an opinion on the bank's financial statements.

4. An audit performed as of a quarter-end date when the Reports of Condition and Income are prepared is preferable and would permit the certified public accountant to assist the bank in the preparation and/or review of those reports. A bank may find it more cost effective to be audited during the accounting firms' less busy periods. The audit firm chosen should be experienced in auditing banks and knowledgeable about banking regulations in order to provide the bank with the most effective service.

5. The board of directors or audit committee of each state nonmember bank that does not already engage an independent certified public accounting firm to conduct an annual audit performed in accordance with generally accepted auditing standards and of sufficient scope to enable the auditor to express an opinion on the bank's (or the parent holding company's consolidated) financial statements taken as a whole generally should analyze the bank's need for external audit coverage annually and record its deliberations in the board or committee's minutes.

6. If, after due consideration, the board of directors or audit committee determines that an annual audit by an independent certified public accounting firm is not necessary for a bank, the reasons for this assessment should be fully documented in the board or committee minutes. In its evaluation, the board generally should consider not only the cost of an audit, but also the potential benefits, including possible cost savings from lower fidelity and other indemnity insurance premiums, and potentially fewer defalcations or lower losses from defalcations. Other indirect benefits of an audit, such as improvements in internal controls; more reliable financial reports to the bank's board of directors, stockholders, bank customers, and the public; greater assurance to bank customers and the public that the bank is being operated in a safe and sound manner; and assistance with the preparation and review of Reports of Condition and Income to assure accurate and timely filing, among other items, should also be carefully weighed.

7. The FDIC recognizes that the board of directors or audit committee may determine that a bank does not need an annual audit by an independent certified public accounting firm (which is the only type of firm that may perform an audit of the bank's financial statements). Without an annual audit, a full review of alternative and/or supplemental approaches such as a review of internal controls or other areas, specified auditing procedures, or a "review" of the financial statements by an independent auditor, is appropriate. In addition to certified public accounting firms, other firms with bank auditing experience and expertise that are independent of the bank may be available to provide acceptable reviews of limited scope auditing work at a reasonable cost. The board of directors or the audit committee should also review this limited scope approach annually as part of its analysis of the bank's external auditing needs to determine whether it provides sufficient substantive external coverage of the bank's risk areas to constitute an acceptable external auditing program. If the bank's outside firm is simply obtaining confirmations of deposits and loans, for example, the board or committee should consider expanding the scope of the auditing work performed. Alternatives could include additional procedures to test: The valuation or collectibility of loans, investments, and repossessed and foreclosed collateral; internal controls; insider transactions; and the reasonableness of the allowance for loan losses. Another alternative would be for the board or committee to reconsider obtaining an audit performed by an independent certified public accountant.

8. The FDIC believes that an annual audit by an independent certified public accounting firm should be an integral part of the safe and sound management of a bank. As a consequence, applicants for deposit insurance coverage after the effective date of this statement of policy will generally be expected to commit their bank to obtain an audit by an independent certified public accountant annually for at least the first three years after deposit insurance coverage is granted.[1] The FDIC may determine on a case-by-case basis that an independent audit is unnecessary where an applicant can demonstrate that the benefits derived from an external audit can be substantially provided by internal expertise or other outside sources, or where the applicant is owned by another company and will undergo an audit performed by an independent certified public accounting firm as part of an audit of the consolidated financial statements of its parent company.

9. Whether currently or newly insured, the FDIC requests each state nonmember bank that undergoes any auditing work by an outside firm, regardless of the scope of the work, to furnish a copy of any reports by the auditor, including any management letters, to the appropriate FDIC regional office as soon as possible after their receipt by the bank.

10. In addition, the FDIC requests each bank to promptly notify the appropriate FDIC regional office when any firm is initially engaged to perform auditing procedures and when a change in auditing firms occurs.

11. Any state nonmember bank owned by another company that directly or indirectly undergoes an audit performed by an independent certified public accouting firm as part of an audit of the consolidated financial statements of its parent company may, at its option, send one copy of the comparable reports by the auditor or notification of the change

[1] Operating non-FDIC insured institutions should also note that the FDIC expects, unless waived in writing by the FDIC, any applicant with more than $50 million in assets to have an audit of its financial statements conducted by a certified public accounting firm prior to submitting an application, and requests that a copy of the auditor's report be included as part of the application. The FDIC may require such an audit, on a case-by-case basis, for applicants with assets of $50 million or less. Please see the June 9, 1987 Statement of Policy Regarding Applications for Federal Deposit Insurance by Operating Non-FDIC Insured Institutions, as amended June 24, 1987.

in accountants for the consolidated company to the appropriate regional director. If several banks supervised by the same FDIC regional office are owned by one parent company, a single copy of each report applicable to the consolidated company may be submitted to the regional office on behalf of all of the affiliated banks.

12. An annual independent external audit complements both the FDIC's supervisory process and bank internal auditing programs by further identifying or clarifying issues of potential concern or exposure, and it can greatly aid management in taking corrective action, particularly when weaknesses are detected in internal control or management information systems. For these reasons, an annual audit performed by an independent certified public accounting firm or specified auditing procedures will be a condition of future enforcement actions when deemed necessary or if it appears that any of the following conditions may exist:

(a) There are inadequate internal controls and internal auditing procedures;

(b) The directorate is generally uninformed in the area of internal controls;

(c) There is evidence of insider abuse;

(d) There are known or suspected defalcations;

(e) There is known or suspected criminal activity;

(f) Where it appears that director liability may exist;

(g) Where direct verification is warranted; and/or

(h) Where questionable transactions with affiliates have occurred.

13. Such an enforcement action may also require that (a) the bank provide to the appropriate FDIC regional office a copy of the auditor's report and any management letter received from the auditor promptly after the completion of any auditing work and that (b) the bank notify the regional office in advance of the time and date of any meeting between management and the auditor at which any auditing findings are to be presented.

By order of the Board of Directors. Dated at Washington, DC, this 13th day of April, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88-8581 Filed 4-18-88; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Availability of Environmental Assessment of Radiological Instrumentation Test Facility; Mt. Weather, VA

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of availability of a material storage building construction plan, an environmental assessment, and finding of no significant impact.

SUMMARY: FEMA has prepared construction plans and an environmental assessment on the proposed construction of a material storage building (MSB) at the site of the Radiological Instrument Test Facility (RITF) in Mt. Weather, Virginia. Based on an analysis of an environmental impact study a finding of no significant impact has been determined.

Background

RITF provides the basic support for the national radiological instrumentation program. Approximately one year ago the facility relocated from the Washington Navy Yard to Mt. Weather. It is now consolidating radioactive material, radiological equipment, and other material into one central location. The MSB is required to house these items.

Proposed Action

Construct an MSB adjacent to the RITF for the purpose of storing radioactive material, radiological instrumentation, calibrators, and other extraneous material belonging to FEMA.

Environmental Impact of the Proposed Action

The location for the MSB is in a Federal compound in a rural, sparsely populated area. The nearest residence to the construction site outside the fenced-in secure government facility is approximately one-half mile. Within the facility, the construction will be a minimum of 25 feet above and parallel to the west side of RITF Building 218 no nearer than 20 feet to that building. To the south, approximately 200 feet and at the same level is Building 201, another storage building. A gravel road, to the north of that structure, will be extended by approximately 200 feet to the MSB loading dock. To the north of the gravel road the land is rocky and barren.

Use of the new structure will have no significant impact on the atmosphere from an oil heater and air conditioner. Noise generated during operations at the MSB will be minimal. Radioactive materials stored in the building will be of the sealed source (encapsulated) type and encased in shielded containers. Container surface radiation levels will adhere to Nuclear Regulatory Commission (NRC) regulations. A comprehensive monitoring system to detect radiation levels will be installed as well as a fire alarm system.

Finding of No Significant Impact

Based on the environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. Therefore, an environmental impact statement for the proposed construction will not be prepared.

For further information and for Single Copies of the Plans and Environmental Assessment Contact: Michael S. Pawlowski, Emergency Management Systems Support, Federal Emergency Management Agency, 500 C Street SW., Room 607, Washington, DC 20472, Telephone No. (202) 646-3080.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

Issued at Washington, DC.

[FR Doc. 88-8492 Filed 4-18-88; 8:45 am]

BILLING CODE 6718-21-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: 202-007590-047

Title: United States/Colombia Conference

Parties: Crowley Caribbean Transport, Inc. Flota Mercante Grancolombia, S.A. Lykes Bros. Steamship Co., Inc. CTMT, Inc.

Synopsis: The proposed amendment would restate the agreement and would make certain changes in procedures related to voting. It would also make changes in matters which can only be considered at owner's meetings and in independent action provisions with respect to compensation payable to freight forwarders.

Agreement No: 202–010636–039

Title: U.S. Atlantic-North Europe Conference ("Conference")
Parties: Atlantic Container Line, B.V. Dart-ML Limited Hapag-Lloyd AG Sea-Land Service, Inc. P & O Containers (TFL) Limited Compagnie Generale Maritime (CGM) Nedlloyd Lijnen, B.V. A.P. Moller-Maersk Line
Synopsis: The proposed amendment provides that any member which did not offer service in the trade as of September 29, 1987 and which is not a party to the U.S.-North Europe Compliance Agreement shall be policed by an independent neutral body under the rules and procedures set forth in the Conference Agreement. The parties have requested a shortened review period.

Agreement No: 202–011189

Title: CCNI/CPV Service Agreement
Parties: Compania Peruana de Vapores Compania Chilena de Navegacion Interoceanica SA
Synopsis: The proposed agreement would permit the parties to pool revenues in the trade between U.S. Atlantic Coast ports, and inland and coastal points (including Canadian inland and coastal points) via such ports, and ports on the West Coast of South America, and inland and coastal points via such ports. The parties would initially operate a total of three vessels in the trade, each with a capacity of 400–500 TEU's. The parties have requested a shortened review period.

Agreement No: 202–011190

Title: Iberia/United States Cooperation Agreement
Parties: South Europe/U.S.A. Freight Conference Atlantic Container Line BV Gulf Container Line (GCL) BV
Synopsis: The proposed agreement would permit the parties to agree upon rates, charges, service contracts and other related matters concerning the transportation of cargo from ports and points in Spain and Portugal to U.S. Atlantic and Gulf ports and U.S. interior and coastal points via such ports.

By Order of the Federal Maritime Commission.

Dated: April 14, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–8580 Filed 4–18–88; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 88–13]

Dominican Ferries P.R., Inc., Marinvest Funds, S.A. v. Commonwealth of Puerto Rico, et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Dominican Ferries P.R., Inc. and Marinvest Funds, S.A. ("Dominican/Marinvest") against the Commonwealth of Puerto Rico; Hector Rivera Cruz, Secretary of Justice for the Commonwealth of Puerto Rico; Dario Hernandez Torres, Secretary of Transportation and Public Works for the Commonwealth of Puerto Rico; Pedro Ortiz Alvarez, Secretary of Consumer Affairs for the Commonwealth of Puerto Rico; Carlos Lopez Feliciano, Superintendent of Police for the Commonwealth of Puerto Rico; Juan Antonio Garcia, Insurance Commissioner for the Commonwealth of Puerto Rico; Ramon Vega Diaz, Jr., and Roberto Baco Dapena, in their capacities as members of, and collectively as, the Commonwealth of Puerto Rico's Interagency Coordinating Board to Combat Illegal Appropriation of Automobiles (hereinafter collectively, "the Commonwealth"), was served April 13, 1988. Dominican/Marinvest allege that the Commonwealth has violated sections 10(b)(11), 10(b)(12) and 10(d)(1), Shipping Act of 1984, 46 U.S.C. app sections 1709(b)(11), 1709(b)(12) and 1709(d)(1) through the passage of certain legislation—The Vehicular Property Protection Act—and regulations implementing that Act. Specifically, it is alleged that the regulations, and in particular a requirement that bonds must be posted if persons desire to ship their motor vehicles abroad for tourism purposes, (if the vehicle is financed with credit) "has had an immediate and irreparable impact on Complaints' operations."

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by April 13, 1988, and the final decision of the Commission shall be issued by August 14, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 88–8489 Filed 4–18–88; 8:45 am]

BILLING CODE 6730–01–M

Truck Detention Charges At California Ports Enlargement of Time To Reply to Petition for Rulemaking

The Commission on March 18, 1988 (53 FR 8976), published a notice of filing of petition by the California Trucking Association seeking the promulgation of a truck detention rule applicable at California ports. The notice requested the submission by interested persons on or before April 15, 1988, of views, arguments, or data in response to the petition.

Upon request of interested persons, and good cause appearing, the time for submission of responses (in an original and 15 copies) to the above-referenced petition is enlarged to May 2, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–8584 Filed 4–18–88; 8:45 am]

BILLING CODE 6730–01–M

Shipping Conditions in the United States/Korea Trade; Enlargement of Time to Reply to Petition

The Commission on March 16, 1988 (53 FR 8697) published a notice of filing by Navios Management, Inc. d/b/a Pacific America Line ("PACAM") of a petition for rulemaking (P3–88) under section 19 of the Merchant Marine Act, 1920, 46 U.S.C. app 876. The notice requested that interested persons submit views, arguments, and/or data on or before April 15, 1988, in response to the petition.

Hyundai Merchant Marine Co., Ltd. and Pan Ocean Shipping Company, Ltd., have filed requests for an enlargement of time until May 31, 1988, to respond to the petition. The United States Department of State has also requested an extension, until May 17, 1988, to file comments. PACAM has filed a reply in opposition to any extension.

The requests all refer to the scheduling of renewed discussions with

the Government of Korea, which will include the topic raised by PACAM in its petition, as a basis for additional time to respond.

Good cause appearing, the Commission has determined to grant some additional time to file comments and the period for submission of responses (in an original and 15 copies) is enlarged to May 17, 1988.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 88-8488 Filed 4-18-88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of February 9-10, 1988

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on February 9-10, 1988.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting indicated that economic activity continued to expand rapidly in the fourth quarter but that the advance reflected a build-up in inventories as domestic final demands weakened. The growth in output appeared to have slowed around year-end. Total nonfarm payroll employment rose much less in January than on average over the previous three months; the manufacturing sector also recorded reduced employment growth in January. The civilian unemployment rate, at 5.8 percent in January, was unchanged from December. Growth in industrial production moderated further in December. Retail sales picked up in December, buoyed by improved auto sales, but remained below levels reached during the summer. Indicators of business capital spending were mixed late in the year. Housing starts fell markedly in December, and were down somewhat on balance in the fourth quarter from the average pace in the second and third quarters. The nominal U.S. merchandise trade deficit declined substantially in November. For October and November combined, the deficit rose slightly from the average rate in the third quarter, but in real terms the deficit was estimated to have narrowed further. The rise in consumer prices slowed and producer prices fell in late 1987, reflecting declines in energy prices; wage trends have shown little change in recent months.

Most interest rates were down substantially on balance since the Committee's meeting in mid-December. In the Treasury securities market, long-term yields fell considerably more than short-term rates. Broad indexes of stock prices rose somewhat on balance over the intermeeting period in still relatively volatile trading. The trade-weighted foreign exchange value of the dollar in terms of the other G-10 currencies declined further in the second half of December but recovered after the turn of the year and has increased moderately on balance since the December meeting.

Growth of M2 and M3 strengthened substantially in January after slowing over November and December. For 1987 as a whole, expansion of M2 fell considerably below the lower end of the range established by the Committee for the year, while growth of M3 was at the lower end of its range. Growth of M1 surged in January following two months of declines. For the year 1987, M1 growth was marginally below that of nominal GNP, and expansion in total domestic nonfinancial debt was at the midpoint of the Committee's monitoring range for the year.

The Federal Open Market Committee seeks monetary and financial conditions that will foster reasonable price stability over time, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives, the Committee at this meeting established growth ranges of 4 to 8 percent for both M2 and M3, measured from the fourth quarter of 1987 to the fourth quarter of 1988. The monitoring range for growth in total domestic nonfinancial debt was set at 7 to 11 percent for the year.

With respect to M1, the Committee again decided not to establish a specific target for 1988. The behavior of this aggregate in relation to economic activity and prices has become very sensitive to changes in interest rates, among other factors, as evidenced by sharp swings in its velocity in recent years. Consequently, the appropriateness of changes in M1 this year will continue to be evaluated in the light of the behavior of its velocity, developments in the economy and financial markets, and the nature of emerging price pressures.

In the implementation of policy for the immediate future, the Committee seeks to maintain the slightly reduced degree of pressure on reserve positions sought in recent days. The Committee agrees that the current more normal approach to open market operations remains appropriate; still sensitive conditions in financial markets and uncertainties in the economic outlook may continue to call for some flexibility in operations. Taking account of conditions in financial markets, somewhat lesser reserve restraint or somewhat greater reserve restraint would be acceptable depending on the strength of the business expansion, indications of inflationary pressures, developments in foreign exchange markets, as well as the behavior of the monetary agregates. The contemplated reserve conditions are expected to be consistent with growth in both M2 and M3 over the period from November through March at annual rates of about 6 to 7 percent. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 4 to 8 percent.

By order of the Federal Open Market Committee, April 12, 1988.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 88-8457 Filed 4-18-88; 8:45 am]

BILLING CODE 6210-01-M

[1] Copies of the Record of policy actions of the Committee for the meeting of February 9-10, 1988, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

Danville Bank Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 12, 1988.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Danville Bank Corporation,* Danville, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Danville, Danville, Pennsylvania.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Freedom Bancshares, Inc.,* Belington, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Belington Bank, Belington, West Virginia.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Gillespie Bancshares, Inc.*, DeSoto, Wisconsin; to become a bank holding company by acquiring 86 percent of the voting shares of DeSoto State Bank, DeSoto, Wisconsin.

Board of Governors of the Federal Reserve System, April 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-8458 Filed 4-18-88; 8:45 am]

BILLING CODE 6210-01-M

Equimark Managing Partners; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 11, 1988.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Equimark Managing Partners*, Pittsburgh, Pennsylvania; to become a bank holding company by acquiring 35 percent of the voting shares of Equimark Corporation, Pittsburgh, Pennsylvania, and thereby indirectly acquire Equibank, Pittsburgh, Pennsylvania; Heritage National Bank, Pittsburgh, Pennsylvania; Equibank (Delaware), N.A., Wilmington, Delaware; The Liberty Financial Group, Inc., Philadelphia, Pennsylvania, and its subsidiary, Liberty Savings Bank, Horsham, Pennsylvania; and Equipmanagement, Inc., Pittsburgh, Pennsylvania; and thereby engage in providing management consulting, investment advisory, loan collection, and real estate appraisal services to nonaffiliated depository institutions pursuant to §§ 225.25(b)(4), 225.25(b)(11), 225.25(b)(14), and 225.25(b)(23) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-8459 Filed 4-18-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Stress Control Strategies in Computer-Mediated Work; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available.

Date: June 10, 1988.

Time: 10:30 a.m.—3:00 p.m.

Place: Room B-28, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Purpose: To review a research project protocol on the effects of distributed rest breaks and physical exercise on affective and somatic strains in data entry-work.

Additional information may be obtained from: Steven L. Sauter, Ph.D., Division of Biomedical and Behavioral Sciences, NIOSH, CDC, 4676 Columbia Parkway, Mail Stop C-24, Cincinnati, Ohio 45226. Telephones: FTS: 684-8293, Commercial: 513/533-8293.

Dated: April 13, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88-8491 Filed 4-18-88; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 77F-0161]

Monsanto Co.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of the petition (FAP 7B3273) proposing that the food additive regulations be amended to provide for the safe use of acrylonitrile/butadiene/styrene copolymers containing not more than 50 percent of polymerized acrylonitrile for use in repeated use food-contact applications.

FOR FURTHER INFORMATION CONTACT: Gillian Robert-Baldo, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 26, 1977 (42 FR 38017), FDA published a notice that it had filed a petition (FAP 7B3273) from the Monsanto Co., c/o Jerome H. Heckman, Keller & Heckman, 1150 17th St. NW., Washington, DC 20036, that proposed to amend the food additive regulations to provide for the safe use of acrylonitrile/butadiene/styrene copolymers containing not more than 50 percent polymerized acrylonitrile for use in food-contact surfaces. In the **Federal Register** of March 26, 1985 (50 FR 11946), FDA published an amended filing notice for the petition to further limit the use of acrylonitrile/butadiene/styrene copolymers for repeated use food-contact applications only.

The Monsanto Co. has now requested further amendment of the notice to restrict the acrylonitrile component in acrylonitrile/butadiene/styrene copolymers to not more than 30 percent, as currently provided for in § 181.32 *Acrylonitrile copolymers and resins* (21 CFR 181.32). Therefore, the Monsanto

Co. is also withdrawing the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 8, 1988.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-8449 Filed 4-18-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 88E-0110]

Determination of Regulatory Review Period for Purposes of Patent Extension; Cefmax

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Cefmax and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase being. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human antibiotic drug product Cefmax (Cefmenoxime Hydrochloride) which is indicated in the treatment of infections caused by susceptible strains of the designated microorganisms in the diseases listed below:

1. Lower respiratory tract infections (pneumonia and bronchitis) caused by *Streptococcus pneumoniae, Haemophilus influenzae, Klebsiella pneumoniae, Staphylococcus aureus, Escherichia coli,* and *Proteus mirabilis.*

2. Urinary tract infections (complicated and uncomplicated) caused by *E. coli, K. pneumoniae,* and *P. mirabilis.*

Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Cefmax (U.S. Patent No. 4,298,607) from Takeda Chemical Industries, Ltd., and requested that FDA's assistance in determining the product's eligibility for patent term extension. In a letter dated March 31, 1988, FDA advised the Patent and Trademark Office that the product had undergone a regulatory review period and that the drug's active ingredient, Cefmenoxime Hydrochloride, represented the first permitted commercial marketing or use. The **Federal Register** notice now represents FDA's determination of the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Cefmax is 2,875 days. Of this time, 1,228 days occurred during the testing phase of the regulatory review period, while 1,647 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* February 17, 1980. The applicant claims that an investigational new drug (IND) application for Cefmax became effective on February 18, 1980. However, FDA records indicate that the IND became effective on February 17, 1980.

2. *The date the application was initially submitted with respect to the human drug product under section 507 of the Federal Food, Drug, and Cosmetic Act:* June 28, 1983. The applicant claims that a new drug application for the antibiotic (NDA 50-571) was initially submitted on February 6, 1984. However, FDA records indicate that NDA 50-571 was initially submitted on June 28, 1983.

3. *The date the application was approved:* December 30, 1987. FDA has verified the applicant's claim that NDA 50-571 was approved on December 30, 1987.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 20, 1988, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 17, 1988, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 12, 1988.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 88-8452 Filed 4-18-88; 8:45 am]

BILLING CODE 4160-01-M

Public Meeting; Issues Concerning AIDS Vaccine Development and Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming public meeting to discuss issues concerning acquired immune deficiency syndrome (AIDS) vaccine development and testing. This discussion is intended primarily to

provide information to assist Public Health Services (PHS) employees in preparing a report for presentation at the PHS Planning Conference for Prevention and Control of AIDS to be held in June 1988.

DATE: The meeting will be held on April 25, 1988, 9 a.m. to 4 p.m.

ADDRESS: The meeting will be held in Conference Rm. 10, Bldg. 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: Deborah J. Henderson, Center for Biologics Evaluation and Research (HFB–1), Food and Drug Administraton, 8800 Rockville Pike, Bethesda, MD 20892, 301–496–0561.

SUPPLEMENTARY INFORMATION: The meeting is being sponsored by FDA to discuss issues concerning AIDS vaccine development and testing. The primary purpose of the meeting is to provide interested persons an opportunity to present information to be used by PHS empolyees in preparing a report for presentation at the PHS Planning Conference for Prevention and Control of AIDS scheduled to be held in June 1988.

Interested persons requesting to present data, information, or views, orally or in writing, should notify the contact person before April 21, 1988.

Dated: April 13, 1988.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–8448 Filed 4–14–88; 10:24 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Cancer Institute; Cancellation of Meeting of the Biometry and Epidemiology Contract Review Committee

Notice of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, scheduled for May 10, 1988, published in the **Federal Register** (53 FR 10949) on April 4, 1988, is hereby cancelled due to circumstances beyond our control. This meeting will be rescheduled at a later date.

For further information, please contact Dr. Harvey Stein, Executive Secretary, Biometry and Epidemiology Contract Review Committee, National Cancer Institute, Westwood Building, Room 804, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7030).

Dated: April 12, 1988.

Betty J. Beveridge,

Committee Management Office, NIH.

[FR Doc. 88–8515 Filed 4–18–88; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Amended Notice of Meeting of the Developmental Therapeutics Contracts Review Committee

Notice is hereby given to amend the notice of the Developmental Therapeutics Contracts Review Committee meeting which was published in the **Federal Register** (53 FR 10437) on March 31, 1988.

The Committee originally scheduled for a two day meeting will now be held on May 6 only, from 8 a.m. to adjournment at the Linden Hill Hotel & Racquet Club, Forest Hills Conference Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814. The meeting will be closed to the public from 8:30 a.m. to adjournment.

Dated: April 12, 1988.

Betty J. Beveridge,

Committee Management Oficer, NIH.

[FR Doc. 88–8514 Filed 4–18–88; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–88–1802]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Managmeent and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: April 13, 1988.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Housing Discrimination Complaint Forms (English/Spanish Version)
Office: Fair Housing and Equal Opportunity
Description of the Need for the Information and its Proposed Use: Pursuant to Pub. L. 90–284, any person who believes he/she has been or is about to be injured by a discriminatory housing practice on the basis of race, color, religion, sex, or national origin may file a complaint with the Secretary of HUD using this form. HUD needs the information provided on the form for the basis of an investigation of a housing discrimination complaint
Form Number: HUD–903 and 903A
Respondents: Individuals or Households, State or Local Governments, and Businesses or Other For-Profit
Frequency of Respondents: On Occasion
Estimated Burden Hours: 5,350
Status: Extension
Contact: Wagner D. Jackson, HUD, (202) 755–5735; John Allison, OMB, (202) 395–6880.

Date: April 13, 1988.

[FR Doc. 88-8524 Filed 4-18-88; 8:45 am]

BILLING CODE 4210-01-M

Office of Environment and Energy

[Docket No. I-88-147]

Intention To Prepare Environmental Impact Statement; the Harris Branch Project, Austin, TX

The Department of Housing and Urban Development, Fort Worth, Texas Regional Office intends to prepare an Environmental Impact Statement (EIS) for The Harris Branch Project located in Austin, Texas as described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rule (40 CFR part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issues and data which the EIS should consider, and recommended mitigating measures and alternatives associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This Notice shall be effective for one year. If one year after the publication of the Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, DC, date April 12, 1988.

Richard H. Broun,

Director, Office of Environment and Energy.

Appendix—EIS on the Harris Branch Project, City of Austin, Texas

The Department of Housing and Urban Development, Fort Worth, Texas Regional Office, intends to prepare an Environmental Impact Statement (EIS) on the subject project in the City of Austin, Texas. The Department hereby solicits comments and information for consideration in this EIS.

Description

The Harris Branch Project is located along Gile Road, north at U.S. Highway 290, within the City of Austin, and in the northeastern portion of Travis County, Texas. The project as proposed consists of 2,170 acres of land for development with 3,621 single-family detached dwelling units, 2,118 single-family attached units, 4,573 multi-family units, 670 acres of retail space, office and industrial development, and 497 acres for public use. Completion is anticipated in about 10 years with housing for approximately 30,000 persons. The City of Austin approved the preliminary development plan and zoning. The Provident Development Company and the Capital Area Development Company have filed an application for mortgage insurance with the San Antonio, Texas HUD Office.

Need

The total project exceeds HUD's 2500 unit EIS threshold (24 CFR 50.42(b)(3)). The application is on file requesting Mortgage Insurance under Title II, section 203(b) of the Housing and Community Development Act of 1974 (Pub. L. 93-383).

Alternatives

At this point HUD perceives the relevant alternatives as: (1) Acceptance of the project as submitted for mortgage Insurance; (2) acceptance of the project with modification and mitigation measures; and (3) rejection of the project for mortgage insurance.

Scoping

This notice is part of the EIS scoping process and, as such, will be used by HUD to determine significant environmental issues, define the study boundary, identify data which the EIS should address, and identify cooperating agencies. No formal scoping meeting is anticipated.

Comments

To assist in the preparation of the Environmental Impact Statement, Federal, State, and local agencies, and other interested persons and organizations are invited to participate in the scoping process by submitting comments on the project and its potential impacts. All comments received within 30 days of this invitation will be considered in the Environmental Impact Statement. Please submit all comments to: I. J. Ramsbottom, Regional Environmental Officer, U.S. Department of Housing and Urban Development, P.O. Box 2905, Fort Worth, Texas 76113. The commercial telephone number of this office is 817-885-5482. The FTS number is 728-5482. These are not toll free numbers.

[FR Doc. 88-8523 Filed 4-18-88; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-08-4220-10; GP-08-118; OR-42920(WASH)]

Public Meeting; North Cascades Scenic Highway Zone Proposed Withdrawal; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the schedule and agenda for a forthcoming public meeting that will provide an opportunity for public involvement regarding the Forest Service's application for protective withdrawal of the North Cascades Scenic Highway Zone.

EFFECTIVE DATE: May 25, 1988.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM, Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

SUPPLEMENTARY INFORMATION: Notice is hereby given that a public meeting will be held to provide an opportunity for public involvement regarding the application by the Forest Service, U.S. Department of Agriculture, for a 20-year protective withdrawal as to approximately 9,000 acres of national forest lands within the North Cascades Scenic Highway Zone. The lands involved are within the Mt. Baker, Okanogan, and Wenatchee National Forests in Whatcom, Skagit, Chelan, and Okanogan Counties, Washington, and are located adjacent to State Highway 20 for a distance of approximately 38 miles between the easterly boundary of the Ross Lake National Recreation Area and the Early Winters Ranger Station.

The meeting will begin at 7 pm, Wednesday, May 25, 1988, in the Okanogan National Forest Supervisor's Office, 1240-2nd Ave. South, Okanogan, Washington. The agenda will include (1) an information briefing by the Bureau of Land Management; (2) an information briefing by the Forest Service; (3) oral statements by interested parties; and (4) question and answer period.

The meeting is open to the public. Interested parties may make oral statements at the meeting and/or may file written statements with the Bureau of Land Management, Oregon/

Washington State Office. Oral statements should be limited to five minutes per party. All statements received will be considered by the Bureau of Land Management and the Forest Service before any recommendation concerning the proposed land withdrawal is submitted to the Secretary of Interior for final action under the authority of section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

Dated: April 8, 1988.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 88-8469 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-33-M

[CO-940-08-4220-10; C-48465]

Proposed Withdrawal; Proposed Public Meeting; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 7,891 acres of public lands and/or public minerals to protect scenic and recreational values in the Ruby Canyon segment of the Colorado River. This notice will segregate the site from surface entry and mining for up to 2 years pending final determination on this application. The lands have been and will continue to be open to mineral leasing.

DATE: Comments and requests to be heard should be received on or before July 18, 1988.

ADDRESS: Correspondence should be addressed to the State Director, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, (303) 236-1768.

SUPPLEMENTARY INFORMATION: On April 13, 1988, a petition was approved allowing the Bureau of Land Management to make application to withdraw the following described public lands from settlement, sale, location or entry, under the general land laws, including the mining laws, subject to valid existing rights, pursuant to the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714:

Ute Principal Meridian

T. 1 N., R. 3 W.,
sec. 6, lots 6 and 8;
sec. 7, lots 1, 2, 3*, 4*, 5*, and 6 thru 9;
sec. 8, lots 2*, 3, 4*, 5*, 6*, and S½NE¼SW¼;
sec. 9, lot 4;
sec. 17, lot 4, S½NE¼, and SE¼NW¼;
sec. 18, lot 1, N½NE¼, and NE¼NW¼.

Sixth Principal Meridian

T. 10 S., R. 103 W.,
sec. 5, S½SW¼ and W½SW¼SE¼;
sec. 6, SE¼SW¼ and S½SE¼;
sec. 7, lots 1 thru 4, 7, 8, SE¼NE¼, W½NW¼, W½SE¼, and E½E½SE¼;
sec. 8, lots 2, 3, 6, 7, and W½W½E½;
sec. 15, lots 2 thru 9, S½N½NW¼, and E½SW¼SW¼;
sec. 16, lots 1 thru 4, 6 thru 8, W½NE¼NE¼, SE¼NE¼NE¼, NW¼NE¼, N½NW¼, and N½SW¼SW¼;
sec. 17, lots 2, 3, 5 thru 7, W½NW¼NE¼, S½NE¼, N½SW¼SW¼, and SE¼SE¼;
sec. 18, lots 2, 8 thru 11, W½E½, E½E½NE¼, E½NE¼SE¼, and NE¼SE¼SE¼;
sec. 19, lots 1, 3, 4, NW¼NE¼, N½SW¼NE¼, SE¼NW¼, NW¼SW¼, and N½NE¼SW¼;
sec. 22, lots 5 thru 8, NE¼NW¼, E½SE¼NE¼, and E½NE¼SW¼;
sec. 27, lot 1.
T. 10 S., R. 104 W.,
sec. 12, E½E½E½;
sec. 13, E½E½E½;
sec. 23, lots 1 thru 4, E½SW¼NE¼, and E½W½SE¼;
sec. 24, lots 1 thru 9, NW¼NE¼, N½NW¼, E½SW¼, and N½SE¼;
sec. 25, lots 1 thru 4, E½W½, and SW¼SW¼;
sec. 26, lots 1 thru 7, E½NW¼NE¼, SW¼NE¼, and S½NW¼;
sec. 27, lots 1 thru 9, S½NE¼, and SE¼NW¼;
sec. 28, lots 1 thru 3, S½SE¼NE¼, and W½SE¼;
sec. 32, lots 1 thru 7, NE¼SW¼, SE¼NW¼SW¼, and N½SE¼;
sec. 33, lots 1 thru 12, NW¼NE¼, and E½SE¼NW¼;
sec. 34, N½N½NE¼, N½N½NE¼NW¼, W½NW¼, and NW¼SW¼;
sec. 35, N½NW¼NE¼ and N½N½NW¼.
T. 11 S., R. 104 W.,
sec. 2, lots 3 and 4;
sec. 4, lots 1 thru 4, S½NW¼, and SW¼;
sec. 5, lot 1, SE¼NE¼, E½SW¼NE¼*, E½SE¼SW¼, N½SE¼, and SE¼SE¼;
sec. 7, lots 1 thru 4;
sec. 8, E½NE¼, N½NW¼, SW¼NW¼, and S½;
sec. 9, NW¼NW¼, W½SW¼NW¼, and W½W½SW¼.

*Minerals only.

The areas described aggregate 7,646.91 acres of public land and 244.04 acres of private lands with public minerals in Mesa County.

The purpose of the proposed withdrawal is to protect the Ruby Canyon segment of the Colorado River which is currently being considered by Congress for designation as a scenic river. This proposed withdrawal is in conformance with the Grand Junction Resource Area Resource Management Plan which recommends this canyon for scenic and recreational use.

For a period of 90 days from the date of publication of this notice, persons who desire to make comments in connection with this action or persons who desire to be heard at a meeting on this matter should submit their comments or requests in writing to the Colorado State Director. A public meeting will be scheduled in connection with this action pursuant to 43 CFR 2310.3-1, and will be conducted in accordance with Bureau of Land Management Manual Section 2351.16B. Notice of the time and place of such meeting will be published in the **Federal Register** at least 30 days prior to the meeting.

This application will be processed in accordance with regulations set forth in 43 CFR Part 2300.

For a period of 2 years from date of publication of this notice in the **Federal Register**, the land will be segregated as specified above, unless the application is denied or cancelled or the withdrawal is approved prior to that date. Temporary uses which may be permitted during this segregative period are those which will not alter existing values of the land.

James D. Crisp,

Chief, Branch of Adjudication.

April 13, 1988.

[FR Doc. 88-8549 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-JB-M

[ID-060-08-4333-12; No. ID 060-6]

Restriction Order; Emerald Empire Resource Area, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Restrictive order.

SUMMARY: Notice is hereby given in accordance with title 43, Code of Federal Regulations, 8364.1, that the following acts are prohibited on certain lands administered by the Bureau of Land Management, Emerald Resource Area:

1. Camping by any person or group of persons at developed camping areas as posted for a period longer than fourteen (14) consecutive days.

2. Camping by any person or group of persons at developed day-use sites as posted. For the purpose of this restriction, camping is defined as occupancy for a period exceeding twelve (12) consecutive hours.

3. Camping by any person or group of persons at any one undeveloped site or location or within one mile of that

location for a period exceeding twenty-one (21) consecutive days.

This restriction is effective immediately, and will remain in effect until revoked or rescinded.

These restrictions do not apply to:

1. Any federal, state or local officer, or any member of an organized rescue or fire-fighting force in the performance of an official duty.

2. Any BLM employee, agent, contractor, cooperator or volunteer while in the performance of an official duty.

3. Any person who is expressly authorized by the Authorized Officer to occupy lands.

These restrictions are necessary to:

(a) Preclude any individual or group from camping at one location for a long period, thereby denying others an opportunity to also use the location for recreational purposes.

(b) Protect the lands from the effects of long-term camping.

(c) Prevent unauthorized, non-recreational occupancy of the public lands from occurring under the guise of recreation.

(d) Preclude camping at day-use sites not designed with facilities to accomodate overnight use.

Violation of this order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. (35 U.S.C. 1733(a)).

Signed at Coeur d'Alene, Idaho, this 11th day of April, 1988.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 88-8467 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-GG-M

[ES-940-08-4520-13; ES-038369, Group 21]

Filing of Plats of Dependent Resurvey, Subdivisions of Sections and Survey of the Rend Lake Acquisition Boundary; Illinois

April 11, 1988.

1. The plat, in seven sheets, of the dependent resurvey of a portion of the south boundary and the east boundary, Township 5 South, Range 2 East, a portion of the east boundary, Township 5 South, Range 1 East, a portion of the subdivisional lines and the survey of the subdivision of sections 8, 16, 17, 20, 21, 24, 25, 29, 30 and 33 and the Rend Lake acquisition boundary, Township 5 South, Range 2 East, Third Principle Meridian, Illinois, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on May 26, 1988.

2. The dependent resurvey and survey was made at the request of the Corps of Engineers.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey and survey must be sent to the Deputy State Director for Cadastral Survey and Support Services, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., May 26, 1988.

4. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 88-8503 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-GJ-M

[MT-940-08-4520-11]

Land Resource Management; Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: Plats of survey of the lands described below accepted March 17, 1988, were officially filed in the Montana State Office effective 10 a.m. on April 4, 1988.

Principal Meridian, Montana

T. 7 S., R. 12 W.,

The plat represents the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines; and the survey of the subdivision of section 5 and the centerline of Montana State Highway Number 278, in the SW¼ of section 5, Township 7 South, Range 12 West, Principal Meridian, Montana. The area described is in Beaverhead County.

This survey was executed at the request of the Butte District Office for the administrative needs of the Bureau.

Principal Meridian, Montana

T. 4 S., R. 12 E.,

The plat represents the dependent resurvey of a portion of the Homestead Entry Survey No. 41, the dependent resurvey of a portion of Tract 37 and the survey of Tract 38 in unsurveyed Township 4 South, Range 12 East, Principal Meridian, Montana. The area described is in Park County.

This survey was executed at the request of the U.S. Forest Service to facilitate a proposed land exchange.

Effective Date: April 4, 1988.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

John A. Kwiatkowski,

Acting State Director.

Dated: April 11, 1988.

[FR Doc. 88-8462 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-DN-M

[NM-940-084520-1]

Filing of Plat of Survey; New Mexico

April 11, 1988.

The plats of surveys described below were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on the dates shown.

The survey representing the dependent resurvey of a portion of the north boundary of the Bosque del Apache Grant, the New Mexico Principal Meridian, the subdivisional lines, and certain small holding claim boundaries, and the subdivision of sections 7 and 18, Township 5 South, Range 1 East, New Mexico Principal Meridian, New Mexico, executed under Group 768, filed April 11, 1988.

The survey representing the survey of certain lot boundaries in section 1, Township 4 South, Range 1 West, New Mexico Principal Meridian, New Mexico, executed under Group 768, Filed April 11, 1988.

These surveys were requested by the Area Manager, Socorro, New Mexico.

The survey representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, and the adjusted record meanders of the left bank of the Canadian River in sections 30 and 32, the subdivision of sections 30 and 32, the survey of the meanders of the 1985 left bank of the Canadian River in sections 30, 31 and 32, and the survey of division of accretion lines in sections 30 and 32, Township 15 North, Range 13 West, Indian Meridian, Oklahoma, executed under Group 51, Oklahoma, filed April 11, 1988.

The survey representing the dependent resurvey of a portion of the subdivisional lines and the adjusted record meanders of the left bank of the Canadian River in sections 23, 24 and 25, Township 15 North, Range 14 West, Indian Meridian, Oklahoma, filed April 11, 1988.

These surveys were requested by the Area Director, Bureau of Indian Affairs, Anadarko, Oklahoma.

The supplemental plat representing the Southwest one-quarter of section 28, Township 23 North, Range 10 East, New

Mexico Principal Meridian, New Mexico, filed April 11, 1988.

This survey was requested by Branch of Lands & Minerals, New Mexico State Office.

These plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plats may be obtained from the office upon payment of $2.50 per sheet.

Kelley R. Williamson,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 88-8468 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-FB-M

Minerals Management Service

Development Operations Coordination Document; Amerada Hess Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amerada Hess Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4541, Block 568, Matagorda Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Port O'Connor, Texas.

DATE: The subject DOCD was deemed submitted on April 8, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. W. Williamson; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2874.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 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: April 11, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-8461 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 2113, Block 322, Eugene Island 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 existing onshore base located at Fourchon, Louisiana.

DATE: The subject DOCD was deemed submitted on April 8, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 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.

Date: April 11, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-8463 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 1096 and 3188, Blocks 99 and 100, respectively, West Delta 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 existing onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on April 6, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. W. Williamson, Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2874.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 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.

Date: April 11, 1988.

J. Rogers Pearcy,

Regional Dirctor, Gulf of Mexico OCS Region.

[FR Doc. 88-8464 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination; Hall-Houston Oil Co.

AGENCY: Minerals Management Service, Interior.

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 5727, Block 244, Main Pass Area, offshore Alabama. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on April 8, 1988. Comments must be received by May 4, 1988, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. W. Williamson; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section Exploration/Development Plans Unit; Telephone (504) 736-2874.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 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. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

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.

Date: April 11, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-8465 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Golden Gate National Recreation Area; Minor Boundary Change and Addition of Certain Lands

By virtue of the authority contained in section 5 of the Act of June 10, 1977 (91 Stat. 210) as amended and section 2(b) of the Act of October 27, 1972 (86 Stat. 1299), notice is hereby given that the boundaries of Golden Gate National Recreation Area are modified to include the following described lands:

All that certain real property situated in the City of Pacifica, County of San Mateo, State of California, described as follows:

Portion of "Part 1" shown on portion of the Rancho San Pedro, the property of David Mahoney, Richard and Robert Tobin, recorded November 19, 1875 in book 1 of maps at page 24, and also being portion of the lands shown on survey of 398.284 acre tract filed August 17, 1943 in book 1 of licensed land surveyors maps at page 78, records of San Mateo County, more particularly described as follows:

Beginning at the northeasterly corner of said Part 1 and running thence along the easterly line of said Part 1 (according to the calls shown on the above named licensed survey), south 1°56' west 836.48 feet to the true point of beginning; thence from said true point of beginning along said easterly line of said Part 1 above referred to south 1°56' west 300 feet to the northerly line of property described in deed to James C. Laskey, dated April 10, 1947 and recorded May 19, 1947 in book 1347 of official records of San Mateo county at page 346; thence along said northerly line north 88°07' 30" west 405.95 feet to the easterly line of the state highway as described in deed to state of California, recorded March 6, 1941 in book 942 official records of San Mateo county at page 334; thence along said easterly line of the state highway north 1°52' 30" east 300 feet to the southerly line of the lands described in deed from Pennelope C. Halstead to Perry Liebman and Ysabel Liebman, his wife, in joint tenancy, recorded August 27, 1954 in Book 2640 of official records of San Mateo county at page 490 (81762-L); thence along the last named line south 88°07' 30" east 405.95 feet, more or less, to the point of beginning.

Excepting therefrom the following described parcel of land:

Beginning at the northwesterly corner of that parcel of land described in the deed to C. Theodore Plummer, recorded March 16, 1955 in book 2760 of official records of San Mateo county at page 398 (34302-M), said corner being also on the easterly line of that parcel of land described in the deed to state of California, recorded March 6, 1941 in book 942 of official records of San Mateo county at page 334; thence along the northerly line of first said parcel (2760 or 398), south 87°11'13" east, 143.01 feet to a line parallel with and distant 25.00 feet southeasterly, at right angles, from the "FR2" line of the Department of Public Works' survey for the state freeway in San Mateo county, road IV-SM-56-PFA; thence along said parallel line south 27°40'02" west 138.04 feet and along a tangent curve to the left with a radius of 775.00 feet, through an angle of 8°50'24" an arc length of 119.57 feet; thence south 72°00'01" east, 22.63 feet; thence along a tangent curve to the right with a radius of 61.00 feet, through an angle of 72°55'18", an arc length of 76.64 feet to the southerly line of first said parcel (2760 or 398); thence along last said line north 87°11'13" west, 110.11 feet to the above-said easterly line of the above-said parcel (942 or 334); thence along last said line north 2°48'47" east, 299.98 feet to the point of beginning.

Donald P. Hodel,

Secretary of the Interior.

[FR Doc. 88-8553 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-70-M

Negotiate Concession Contract; Rock Creek Park Horse Centre, Inc.

Pursuant to the provisions of section of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Rock Creek Park Horse Centre, Inc., authorizing it to continue to provide horseback riding and boarding facilities and services for the public at Rock Creek Park, Washington, DC, for a period of five years from January 1, 1988, through December 31, 1992.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and

no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1987, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, National Capital Region, Washington, DC, for information as to the requirements of the proposed contract.

Date: March 18, 1988.

Ronald N. Wrye,

Acting Regional Director, National Capital Region.

[FR Doc. 88-8552 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations; Alaska et al.

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 9, 1988. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by May 4, 1988.

Beth Boland,

Acting Chief of Registration, National Register.

ALASKA

Juneau County

Juneau vicinity, *Twin Glacier Camp*, Along the Taku River

ARIZONA

Maricopa County

New River, *Sun-up Ranch*, W. Frontage Rd. off Black Canyon Hwy./I-17

ARKANSAS

Pope County

Russellville, *White, John W., House*, 1509 W. Main St

CALIFORNIA

Contra Costa County

Concord, *Galindo, Don Francisco, House*, 1721 Amador Ave.

Orange County

San Juan Capistrano, *Esslinger Building*, 31866 Camino Capistrano

San Diego County

San Diego, *San Diego Civic Center*, 1600 Pacific Hwy.

San Joaquin County

Lodi, *Woman's Club of Lodi*, 325 W. Pine St.

Stanislaus County

Modesto, *Wood, Walter B., House*, 814 Twelfth St.

Trinity County

Lewiston, *Lewiston Historic District*, Roughly Deadwood, Turnpike, and Schoolhouse Rds.

MINNESOTA

Morrison County

Pike's, Zebulon, 1805-1806 Wintering Quarters

NEVADA

Clark County

Las Vegas, *Las Vegas Grammar School*, 400 Las Vegas Blvd., S.

OHIO

Franklin County

Canal Winchester, *Columbus Street Historic District*, 8-129 E. Columbus St. and 57 S. High St.

SOUTH CAROLINA

Georgetown County

Richmond Hill Plantation Archeological Sites (38GE256, 38GE262, 38GE266, 38GE283, 38GE306) (Georgetown County Rice Culture c. 1750-1910 MPS

Georgetown vicinity, *Belle Isle Rice Mill Chimney (Georgetown County Rice Culture c. 1750-1910 MPS)*, Cat Island

Georgetown vicinity, *Beneventum Plantation House (Georgetown County Rice Culture c. 1750-1910 MPS)*, Off CR 431

Georgetown vicinity, *Fairfield Rice Mill Chimney (Georgetown County Rice Culture c. 1750-1910 MPS)*, Off US 17

Georgetown vicinity, *Keithfield Plantation (Georgetown County Rice Culture c. 1750-1910 MPS)*, Off CR 52

Georgetown vicinity, *Milldam Rice Mill and Rice Barn (Georgetown County Rice Culture c. 1750-1910 MPS)*, Off CR 30

Georgetown vicinity, *Nightingale Hall Rice Mill Chimney (Georgetown County Rice Culture c. 1750-1910 MPS)*, Off CR 52

Georgetown vicinity, *Pee Dee River Rice Planters Historic District (Georgetown County Rice Culture c. 1750-1910 MPS)*, Along the Pee Dee and Waccamaw Rivers

Georgetown vicinity, *Rural Hall Plantation House (Georgetown County Rice Culture c. 1750-1910 MPS)*, Off CR 179

Georgetown vicinity, *Weehaw Rice Mill Chimney (Georgetown County Rice Culture c. 1750-1910 MPS)*, Off CR 325

Plantersville, *Summer Chapel Rectory, Prince Frederick's Episcopal Church (Georgetown County Rice Culture c. 1750-1910 MPS)*, CR 52

Plantersville, *Summer Chapel, Prince Frederick's Episcopal Church (Georgetown County Rice Culture c. 1750-1910 MPS)*, CR 52

TEXAS

Cameron County

Brownsville, *Celaya-Creager House*, 441 E. Washington St.

WYOMING

Laramie County

Cheyenne, *Downtown Cheyenne Historic District (Boundary Increase)*, Roughly bounded by Nineteenth St., Capital Ave., Seventeenth St., and Carey Ave.

Cheyenne, *Lakeview Historic District*, Roughly bounded by Twenty-Seventh, Seymour, Maxwell, and Warren

Sublette County

Boulder vicinity, *Jensen Ranch*, Martin Jensen County Rd.

[FR Doc. 88-8312 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-70-M

Appalachian Trail Route Change

A Notice of a proposed relocation of the Appalachian Trail right-of-way and Trail routes within the right-of-way was published on February 25, 1988 [53 F.R. 5471] to provide an opportunity for public review and comment. No comments were received on the proposals. An Environmental Assessment has been prepared, and a Finding of No Significant Impact for the relocation is on file in the Appalachian Trail Project Office, National Park Service, Harpers Ferry, West Virginia 25425. This notice confirms this right-of-way relocation as the official route of the Appalachian Trail.

Charles R. Rinaldi,

Acting Project Manager.

March 31, 1988.

[FR Doc. 88-8551 Filed 4-18-88; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

[Federal Coal Leases W-0271199, W-0271200, and W-0271201; OSMRE-EIS-24]

Availability of the Draft Environmental Impact Statement on the Proposed Dry Fork Mine, Campbell County, WY

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

ACTION: Notice of availability of a draft environmental impact statement.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is making available a draft environmental impact statement (EIS) on the proposed Dry Fork mine. The EIS has been prepared to assist the Department of the Interior in making a decision on the mining plan submitted by Phillips Petroleum Company (PPC) for their proposed surface coal mine, located approximately 5 miles north and east of Gillette, Wyoming. OSMRE is requesting that any interested party submit written comments on the draft EIS to assist with the preparation of the final EIS. OSMRE may hold a public meeting in the vicinity of the mine to receive oral comments if substantial interest is expressed.

DATES: Comment Period: Written comments on the draft EIS must be received by 4:00 p.m. (MDT), June 10, 1988, at the location listed below, under **"ADDRESSES."**

Public Meetings: Expressions of interest in a public meeting should be submitted by 4:00 p.m. (MDT) on May 6, 1988 at the location listed below, under **"ADDRESSES."**

ADDRESSES: Written comments, expressions of interest for a public meeting, and/or requests for additional copies of the draft EIS: Hand-deliver or mail to Raymond L. Lowrie, Assistant Director, Office of Surface Mining Reclamation and Enforcement, Western Field Operations, Brooks Towers, Second Floor, 1020–15th Street, Denver, Colorado 80202, Attention: Floyd McMullen.

FOR FURTHER INFORMATION CONTACT: Floyd McMullen, Dry Fork EIS Project Leader (telephone: 303–844–3104) at the Denver, Colorado, location given under **"ADDRESSES."**

SUPPLEMENTARY INFORMATION: PPC's proposed Dry Fork mine would be a new surface coal mine located in Campbell County, Wyoming, 5 miles north and east of the city of Gillette. The draft EIS analyzes the probable impacts that would result should the Secretary of the Interior approve the mining plan for, and PPC subsequently develop, the proposed mine. The EIS also analyzes the probable cumulative impacts that would result from surface coal mining operations not only at the proposed Dry Fork mine but also at the one mine proposed for operation and the six mines currently operating in its vicinity north and east of Gillette.

The life-of-mine (permit) area for the proposed Dry Fork mine, comprising 3,798 acres, is currently used for ranching and wildlife habitat. By mining the proposed life-of-mine area, PPC would extract 226 million tons of low-sulphur subbituminous coal over 34 years and, in the process, would disturb 2,905 acres. The peak annual production rate from the mine would be 15 million tons.

Altogether, the life-of-mine areas for the proposed Dry Fork mine and the other one proposed and six existing mines north and east of Gillette comprise 30,424 acres. Upon completion of mining and related activities, these eight mines would have disturbed about 21,744 acres and produced about 2.1 billion tons of coal.

Three alternatives that treat the available range of decision are evaluated in the EIS. These include: approval of the proposed mining plan with conditions; approval of the proposed mining plan with additional mitigation measures over and above the standard conditions of approval imposed under the first alternative; and disapproval of the proposed mining plan. OSMRE has identified "approval of the proposed mining plan with conditions" as the preferred alternative.

If substantial interest is shown, OSMRE may hold a public meeting on the draft EIS during the comment period. If a public meeting is needed, notice will be given in the **Federal Register** and the Gillette News-Record newspaper. Details regarding the meeting will be provided in the public notice.

Date: April 12, 1988.

Brent Walquist,

Assistant Director, Program Policy.

[FR Doc. 88–8490 Filed 4–18–88; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Penick Corp.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 2, 1988, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, 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
Pholcodine (9314)	I
Alphacetylmethadol (9603)	I
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Pethidine (meperidine) (9230)	II
Methadone (9250)	II
Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane (9254)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid (9620)	II
Tincture of opium (9630)	II
Powdered opium (9639)	II
Granulated opium (9640)	II
Mixed alkaloids of opium (9648)	II
Concentrate of poppy straw (9670)	II
Phenazocine (9715)	II
Fentanyl (9801)	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 (30 days from publication).

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: April 12, 1988.

[FR Doc. 88–8519 Filed 4–18–88; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Arvin Industries, Inc. et al.

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 April 29, 1988.

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 April 29, 1988.

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 11th day of April, 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner Union/Workers/Firm	Location	Date received	Date of petition	Petition No.	Articles produced
Arvin Industries, Inc. (Workers)	Princeton, KY	4/11/88	3/31/88	20,583	Exhaust systems.
Break Systems, Inc. (Company)	Stratford, CT	4/11/88	3/21/88	20,584	Brake linings.
Bourns, Inc. (Workers)	Ames, IA	4/11/88	3/22/88	20,585	Electric components.
C.M. Offray & Son (Workers)	Frackville, PA	4/11/88	3/31/88	20,586	Distribution facility.
Centerline Metal Products (UAW)	Roseville, MI	4/11/88	3/28/88	20,587	Auto parts.
Curtis Bay Towing (MEBA)	Philadelphia, PA	4/11/88	2/26/88	20,588	Dock ships (towing).
McAllister Towing (MEBA)	Philadelphia, PA	4/11/88	2/26/88	20,589	Dock ships (towing).
Taylor Marine (MEBA)	Philadelphia, PA	4/11/88	2/26/88	20,590	Dock ships (towing).
Deminex U.S. Oil Co. (Workers)	Dallas, TX	4/11/88	3/21/88	20,591	Crude oil and natural gas.
Doehler Jarvis/Farley Metals, Inc. (UAW)	Toledo, OH	4/11/88	3/30/88	20,592	Aluminum castings.
Florsheim Shoe Co. (Capaha Plant) (ACTWU)	Cape Girardeau, MO	4/11/88	4/2/88	20,593	Men's dress shoes.
General Electric Co., (USWA)	Salem, VA	4/11/88	3/24/88	20,594	Drive systems and its components.
Gilbert & Bennett Mfg. Co. (USWA)	Georgetown, CT	4/11/88	3/29/88	20,595	Wire fensing.
Haven-Busch Co. (Ironworkers)	Grandville, MI	4/11/88	3/24/88	20,596	Fabricated structural steel.
ITW Cortron (Workers)	Elmhurst, IL	4/11/88	3/29/88	20,597	Computer keyboards.
International Paper Co. (IWA)	Gardiner, OR	4/11/88	3/28/88	20,598	Douglas fir lumber.
Lee-Man Mining Co, Mine No. 1 (Workers)	Big Stone Gap, VA	4/11/88	3/30/88	20,599	Coal mining.
Lee-Man Mining Co, Mine No. 2 (Workers)	Big Stone Gap, VA	4/11/88	3/30/88	20,600	Coal mining.
Triumph-Adler-Royal (Workers)	Manchester, CT	4/11/88	3/30/88	20,601	Warehousing of typewriter ribbons.
USX Corporation (USWA)	Vandergrift, PA	4/11/88	3/21/88	20,602	Electrical steel products.
W.R. Grace (Davison Chemical) (Teamsters)	Cincinnati, OH	4/11/88	4/4/88	20,603	Cracking catalysts.
Wetterau, Inc., Pittsburgh Div. (Workers)	Belle Vernon, PA	4/11/88	3/29/88	20,604	Sorting and computation of mfr's coupons for grocery industry.

[FR Doc. 88-8594 Filed 4-18-88; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; A.O. Smith Automotive Co. et al.

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 April 4, 1988–April 11, 1988.

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.

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–20, 443; A.O. Smith Automotive Co., Milwaukee, WI

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–20, 449; JPI Transportation Products, Inc., Engine Product Group, Cleveland, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–20, 496; Tee Oil, Inc., Lafayette, LA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–20, 487; Dow Corning Corp., Springfield Smelter Springfield, OR

U.S. imports of silicon metal declined absolutely and relative to domestic production in 1986 compared to 1985 and in the first three quarters of 1987 compared to the same period in 1986.

Affirmative Determinations

TA–W–20, 412; M. Smith, Inc., Philadelphia, PA

A certification was issued covering all workers of the firm separated on or after January 11, 1987 and before February 25, 1988.

TA–W–20, 472; Bill J. Graham Oil and Gas, Midland, TX

A certification was issued covering all workers of the firm separated on or after January 6, 1987.

TA–W–20, 494; Southwestern Sunbelt Cement Co., El Paso, TX

A certification was issued covering all workers of the firm separated on or after January 4, 1988.

I hereby certify that the aforementioned determinations were issued during the period April 4–8, 1988. 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: April 12, 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88–8595 Filed 4–18–88; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–13,350]

Further Determination on Remand; Puna Sugar Co., Ltd., Keaau, HI

Pursuant to the U.S. Court of International Trade remand dated January 28, 1988 in *ILWU Local 142*, v. *Donovan* (USCIT 83–5–00779) and after having obtained an extension the Department is issuing a further determination on remand.

The Court's remand orders that the Department conduct and complete its investigation on exports of refined sugar under the drawback program, 19 U.S.C. 1313 as required by the issues raised in this case and report its findings within 60 days from the date of the Court's order.

Puna was one of five sugar cane plantations owned by American Factors, Ltd., (Amfac) which was a part owner of the California and Hawaiian (C&H) sugar refinery cooperative in San Francisco. Puna had a captive market for its raw sugar since C&H took all of Puna's production.

The basis for the Department's initial denial is that Puna's sole customer of raw sugar, C & H in San Francisco, California, does not import raw or refined sugar. Therefore, the "contributed importantly" test of the increased import criterion of the Group Eligibility Requirements of the Trade Act of 1974 was not met. Moreover, Amfac shut down the Puna plantation because of its low yields, high operating costs and poor working conditions. Additionally, C & H, the sole customer of Puna, had increased sales, of refined sugar, in quantity, in 1981 compared to 1980.

Although C & H reported a very small decline (about 3 percent) in refined sugar sales in 1982 compared to 1981, none of the surveyed customers reported any import purchases. The survey did find, however, that large industrial customers, especially bottlers, were reducing their purchases of refined sugar for domestic high fructose corn syrup (HFCS). The Department's survey of C & H's customers accounted for a substantial share of C & H's 1982 sales. Therefore, there is no evidence that imports of raw sugar contributed importantly to declines in production and/or sales and employment at Puna or C & H. Accordingly, the mere fact that U.S. aggregate imports of raw sugar increased in 1981 would not, in itself, form a basis for certifying workers laid off at Puna in 1982.

Although the Court required the Department to further investigate exports of refined sugar under the drawback program, further investigation did not provide any additional relevant information on drawbacks. However, this issue is not relevant to the Department's determination, since there is no evidence that Puna's layoffs were caused by increased imports. The Department's discussion on drawbacks in its reconsideration notice was only to show the reason why some imported raw sugar was refined and exported in 1981. The drawback discussion is not part of the statutory group eligibility test; consequently, there is no purpose in pursuing the drawback discussion.

Further, the Department continues to hold the view that substantial and continuing shifts to HFCS is responsible for the downward trend in refined sugar consumption in the U.S. and explains the lower level of production and imports. Investigative findings show that HFCS was substituted increasingly for refined sugar during the period under investigation.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers of Puna Sugar Company, Keaau, Hawaii.

Signed at Washington, DC, this 11th day of April, 1988.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 88–8596 Filed 4–18–88; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

Nevada State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(e) of the Act and 29 CFR Part 1902. On January 4, 1974, notice was published in the **Federal Register** (39 FR 1008) of the approval of the Nevada plan and the adoption of Subpart W to Part 1952 of Title 29 containing the decision. The Nevada plan provides for the adoption of Federal standards as State standards by reference.

By memo's dated February 2, 3, 4, and 5, 1988, from Nancy C. Barnhart to Frank Strasheim and incorporated as part of the plan, the State submitted State standard revisions identical to 29 CFR 1919.1200, Hazard Communication (August 24, 1987, 52 FR 31852); 29 CFR 1910.1028, Benzene (September 11, 1987, 52 FR 34460); 29 CFR 1926, Construction Industry Test and Inspection Records (September 28, 1987, 52 FR 36378); 29 CFR 1910.268, Telecommunication Training Records (September 28, 1987, 52 FR 36384); and 29 CFR 1910.1048 and 29 CFR 1926.55, Formaldehyde (December 4, 1987, 52 FR 46168). These standards are contained in the Division of Occupational Safety and Health Standards for General Industry and Construction Standards. The subject standards, 29 CFR 1910.1200, Hazard Communication; 29 CFR 1910.1028, Benzene; 20 CFR 1926, Construction Industry Test and Inspection Records; 29 CFR 1910.268, Telecommunication Training Records; and 29 CFR 1910.1048, Formaldehyde were adopted by reference on September 23, 1987;

December 10, 1987; October 28, 1987 and February 2, 1988 respectively, pursuant to Nevada State law, section 618.295.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the standards are identical to the Federal standards and accordingly are approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 71 Stevenson Street, Room 415, San Francisco, CA 94105; and Director, Division of Occupational Safety and Health, 1370 South Curry Street, Carson City, Nevada 89710; and Directorate of Federal-State Operations, Room N3700, 200 Constitution Avenue, NW, Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Nevada State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal Standards which were promulgated in accordance with federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 19, 1988.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at San Francisco, California, this 18th day of February, 1988.

Frank Strasheim,

Regional Administrator.

[FR Doc. 88-8588 Filed 4-18-88; 8:45 am]

BILLING CODE 4510-26-M

Nevada State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(e) of the Act and 29 CFR Part 1902. ON January 4, 1974, notice was published in the **Federal Register** (39 FR 1008) of the approval of the Nevada plan and the adoption of Subpart W to Part 1952 of Title 29 containing the decision. The Nevada plan provides for the adoption of Federal standards as State standards by reference.

By letter dated November 6, 1987, from Nancy C. Barnhart to Raymond J. Owen and incorporated as part of the plan, the State submitted State standard revisions identical to 29 CFR 1928.110, Field Sanitation (May 1, 1987, 52 FR 16050). The standard is contained in the division of Occupational Safety and Health Standards for Agriculture. The subject standard, 29 CFR 1928.110, Field Sanitation was adopted by reference on May 30, 1987 pursuant to Nevada State law, section 618.295.

2. Decision

Having reviewed the State submission in comparison with the Federal standard, it has been determined that the standard is identical to the Federal standard and accordingly is approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 71 Stevenson Street, Fourth Floor, San Francisco, CA 94105; and Director, Division of Occupational Safety and Health, 1370 South Curry Street, Carson City, Nevada 89710; and Directorate of Federal Compliance and State Programs, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Nevada State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons;

1. The standard is identical to the Federal Standard which was promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standard was adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 19, 1988.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at San Francisco, California, this 4th day of December, 1987.

Frank Strasheim,

Regional Administrator.

[FR Doc. 88-8589 Filed 4-18-88; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State submitted, by letter dated March 18, 1987, from William J. Brown, Director, Workers' Compensation Department, to James W.

Lake, Regional Administrator, standards comparable to 29 CFR 1926.400 through 1926.449, Electrical Standards for Construction, as published in the Federal Register on July 11, 1986 (51 FR 25294). These standards were adopted effective by the State on January 15, 1987 after the Notice of Proposed Amendment of Rules was mailed, on December 4, 1986, to those on the Workers' Compensation Department mailing list established pursuant to OAR 436–10–000 and to those on the Department's distribution mailing list as their interest appeared. A public hearing was not held for this adoption. During the designated response period, a letter was received from Portland General Electric Company (PGE). Issues raised concerned application of construction electrical rules to facilities owned and operated by PGE for the purpose of transmission and distribution of electrical power. These issues were resolved by discussion and a subsequent written response. Approval of these Rules, OAR Chapter 437, Division 83, Electrical Safety in Construction, was withheld due to the omission of one phrase and several errors in the text that altered the intent of five (5) rules. On April 24, 1987 this standard submission was returned to the State for corrections.

By letter dated September 27, 1987, from Darrel D. Douglas, Administrator, Accident Prevention Division, Workers' Compensation Department, to James W. Lake, Regional Administrator, the State re-submitted for approval OAR 437 Division 83, Electrical Safety in Construction, following the corrections of the omission and errors to the original submission.

2. Decision

Having reviewed the State submissions in comparison with the Federal standard, it has been determined that the State standard is identical to the Federal standard.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N–3476, 200 Constitution Avenue NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 19, 1988.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 13th day of October 1987.

Carl A. Halgren,

Acting Regional Administrator.

[FR Doc. 88–8590 Filed 4–18–88; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (88–37)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on Flight Research and Technology.

DATES AND TIMES: May 18, 1988, 8 a.m. to 4 p.m.; and May 19, 1988, 8 a.m. to 4 p.m.

ADDRESS: Jet Propulsion Laboratory, National Aeronautics and Space Administration, Room 102, Building 198, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Levine, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–2835.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee (AAC) was established to provide overall guidance to the Office of Aeronautics and Space Technology (OAST) on aeronautics research and technology activities. Special ad hoc review teams are formed to address specific topics. The Ad Hoc Review Team on Flight Research and Technology, chaired by Mr. Joseph T. Gallagher, is comprised of six members. The meeting will be open to the public up to the seating capacity of the room (approximately 20 persons including the team members and other participants).

Type of Meeting: Open.

Agenda:

May 18, 1988

8 a.m.—Review of Presentation Material.
10 a.m.—Discussion of Findings and Conclusions.
1 p.m.—Assignment of Working Groups.
2 p.m.—Working Group Activities.
4 p.m.—Adjourn.

May 19, 1988

8 a.m.—Working Group Activities.
1 p.m.—Convene Working Groups—Review of Final Report Elements.
4 p.m.—Adjourn.

April 12, 1988.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88–8473 Filed 4–18–88; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

Open Hearing

AGENCY: National Commission to Prevent Infant Mortality.

ACTION: Notice of open hearing.

SUMMARY: In accordance with Pub. L. 99–660, notice is given of the 5th hearing of the National Commission to Prevent Infant Mortality. The purpose of this hearing is to receive testimony from organizations and individuals on what their priorities and recommendations are for promoting infant health in the United States.

DATE: May 20, 1988.

TIME: 9:30 a.m.-12:30 p.m.

ADDRESS: Room SD–608, Senate Dirksen Bldg., 1st Street and Constitution Avenue NE., Washington, DC 20210.

FOR FURTHER INFORMATION: Anne Hockett, 202–472–1362.

Rae K. Grad,

Executive Director.

[FR Doc. 88–8502 Filed 4–18–88; 8:45 am]

BILLING CODE 6820-SK-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302]

Florida Power Corp.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–72, issued to Florida Power Corporation (the licensee), for operation of the Crystal River Unit 3 Nuclear Generating Plant, located in Citrus County, Florida.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specifications (TS) related to actions to be taken when one of the batteries or battery chargers supplying DC control power to the 230 KV switchyard breakers is inoperable, and to the time the unit may operate with the battery inoperable.

The proposed action is in accordance with the licensee's application for amendment dated January 20, 1988.

The Need for the Proposed Action

The proposed change to the TS is required in order to provide more appropriate corrective actions for an inoperable battery or charger, to allow surveillance testing of the batteries within the action statement time interval and to clarify surveillances and equipment required to be operable during shutdown.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TS. The proposed revisions woud add: (1) Conservative and/or more restrictive Limiting Conditions for Operation, which would also reduce unnecessary operation of the diesel generators and would reduce risk to personnel and equipment, and (2) clarification to surveillance requirements during shutdown. Therefore, the proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would not result in any significant radiological environmental impacts.

With regard to potential nonradiological impacts, the proposed change to the TS involves systems located within the restricted area as defined in 10 CFR Part 20. it does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 22, 1988 (53 FR 9386). No request for hearing or petition for leave to intervene has been filed following this notice.

Alternatives to the Proposed Action

Since the Commission concluded that there are not significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not redue environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Crystal River Unit 3, dated May 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission had determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for the amendment dated January 20, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–8506 Filed 4–18–88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-397]

Washington Public Power Supply System; Issuance of Amendment to Facility Operation License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 54 to Facility Operating License No. NPF–21, issued to Wahington Public Power Supply System (the licensee), which revised the Technical Specifications for operation of the Nuclear Project No. 2, located in Benton County, Washington.

The amendment was effective as of the date of issuance.

The amendment modified the Technical Specifications to revise snubber functional testing sampling plans.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendments and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on March 7, 1988 (53 FR 7269). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility dated December 1981.

For further details with respect to the action see (1) the application for amendent dated December 1, 1987, as revised March 18, 1988, (2) Amendment No. 54 to License No. NPF–21, (3) the Commission's related Safety Evaluation

and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Streeet NW., and at the Richland City Library, Swift and Northgate Streets, Richland, Washington 99352. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 11th day of April 1988.

For the Nuclear Regulatory Commission.

Robert B. Samworth,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-8507 Filed 4-18-88; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Revision of SF 50-A Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), this notice announces the proposed revision of SF 50-A, Notice of Short-Term Employment, which was submitted to OMB for clearance. SF 50-A is completed by applicants for temporary Federal employment for 1 year or less. Approximately 62,500 forms are completed each year, and the application portion of the form takes approximately 12 minutes to complete, for a total of 12,500 hours. For copies of this proposal, call C. Ronald Trueworthy, Agency Clearance Officer, on (202) 632-0261.

DATE: Comments on this proposal should be received by April 29, 1988.

ADDRESSES: Send or deliver comments to—

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, Room 6410, 1900 E Street NW., Washington, DC 20415,

and

Joesph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carol E. Porter, (202) 632-4453, U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 88-8494 Filed 4-18-88; 8:45 am]

BILLING CODE 6325-01-M

PRESIDENTIAL COMMISSION ON THE HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIC

AIDS in the Workplace and the Safety of the Blood Supply; Public Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, the the Presidential Commission on the Human Immunodeficiency Virus Epidemic will hold a public meeting on "AIDS in the Workplace and the Safety of the Blood Supply" Monday, May 9, 1988, at 9:00 a.m. to 5:30 p.m.; Tuesday, May 10, 1988, 8:30 a.m. to 6:00 p.m.; and Wednesday, May 11, 1988, at 9:00 a.m. to 4:00 p.m. at the Indiana University Executive Conference Center, 850 West Michigan Street, Indianapolis, Indiana.

The purpose of the meeting is to receive testimony from representatives of the public and private sectors on the impact of AIDS on business, industry, and the Federal Government. Testimony will also be received on health care worker safety and safety of the blood supply.

Records shall be kept of all Commission proceedings and shall be available for public inspection during regular office hours at 655-15th Street, NW., Suite 901, Washington, DC 20005.

Polly L. Gault,

Executive Director.

[FR Doc. 88-8622 Filed 4-15-88; 11:22 am]

BILLING CODE 4160-15-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25580; File Nos. 4-218 and S7-433]

Joint Industry Plan; Order Approving Amendments to the Consolidated Quotation Plan and Consolidated Transaction Plan Fee Schedules

I. Introduction

On December 7, 1987, the paticipants in the Consolidated Tape Association ("CTA") and Consolidated Quotation System ("CQS") submitted amendments [1] to the Plan governing the operation of the consolidated quotation reporting system ("CQ Plan") the Plan governing the operation of the consolidated transaction reporting plan ("CTA Plan").[2] The Commission received three comments on the proposed amendments and one comment from the American Stock Exchange ("Amex"), the Network B Plan administrator, in response.[3] This order approves the amendments.

II. Description of the Amendments and Plan Participants' Rationale

The purpose of the amendments is to revise Network B [4] fees to accommodate "Other Services" (services subscribers offer customers that differ from conventional services);[5] raise the

[1] The amendments to the CQ and CTA Plans were submitted pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act"). Rule 11Aa3-2(c) (4) empowers the Commission to summarily put into effect on a temporary basis a Plan amendment "if the Commission finds that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system or otherwise in furtherance of the purpose of the Act." The CTA Plan amendments also were submitted pursuant to Rule 11Aa3-1 under the Act.

[2] The participants originally submitted the amendments on March 31, 1987. *See* Securities Exchange Act Release No. 24334 (April 13, 1987), 52 FR 12997. On August 12, 1987, the participants withdrew those amendments and refiled them pursuant to Rule 11Aa3-2(c)(4). *See* Securities Exchange Act Release No. 24797 (August 13, 1987), 52 FR 31108. On December 7, 1987, the participants again withdrew the amendments and resubmitted them pursuant to Rule 11Aa3-2(c)(4). *See* Securities Exchange Act Release No. 25193 (December 14, 1987), 52 FR 48172. The Commission requested that the participants resubmit the amendments to allow the Commission adequate time to review them and to review the comment letters submitted on the proposal.

[3] *See* letters from Paul Zurkowski, President, Information Industry Association ("IIA") to Jonathan Katz, Secretary, SEC, dated June 5, 1987 ("IIA June 5, 1987, letter"); from Carrie E. Dwyer, Senior Vice President and General Counsel, to Jonathan G. Katz, Secretary, SEC, dated August 24, 1987 ("Amex August 25, 1987, letter"); from Tess Lander/Mickley, Vice President-Branch Systems, on behalf of IIA, to Jonathan G. Katz, Secretary, SEC, dated September 29, 1987; from Kenneth B. Allen, Senior Vice President, Government Relations IIA, to Jonathan G. Katz, Secretary, SEC, dated October 27, 1987.

[4] "Network B" refers to the consolidated data stream representing transactions and quotation data on eligible securities that are listed on the American Stock Exchange ("Amex") or that are traded on regional exchanges but substantially meet the Amex listing standards.

[5] Examples of "Other Services" are services that allow customers to: (1) Obtain real-time stock market information over the telephone through an automated process involving a computer-generated voice; or (2) obtain real-time stock market information over a leased printer located in their homes or offices.

Network B analysis programs charge; and establish a new combined, lower fee for receipt of Network B last sale and bid-ask data by non-professional subscribers. The amendments also make several conforming and technical changes.[6]

First, the amendments incorporate into the CTA and CQ Plans new fees for Other Services that are substantially lower than other professional Network B charges. In effect, the new fees are charged on the basis of "device equivalency," as if the broker-dealer or vendor were serving its customers by manual interrogation of a last sale data base.

Second, the amendments reduce the monthly fees vendors pay on behalf of their non-professional customers to provide them with Network B data. Previously vendors paid $5.00 under the CTA Plan and $4.00 under the CQ Plan. The amendment provides for a single, combined monthly fee of $3.00 for CTA and CQS data.

Finally, the amendments increase the monthly Network B analysis programs charge from $50 to $200. Use of CTA and CQS data for other categories of computer programs (for example, compilation of stock tables and operations control programs) requires payment of a monthly fee of $200 per category.

The participants stated that they designed the amendments to permit wider dissemination of market data by making it less expensive for individual investors. They believe that the new fees also offer greater flexibility to broker-dealers and vendors in designing new market data services. Finally, the participants stated that they believe the amendments fulfill the national market system objectives of dissemination of last sale information and thus are consistent with section 11A of Securities Exchange Act of 1934.

III. Comments

As noted above, the Commission received three comments from IIA. The first letter supported some of the proposed amendments and raised concerns about others.[7] IIA applauded the combination and reduction of non-professional fees as increasing investors' access to financial market data. IIA objected, however, to the increase in the analysis programs charge.

Additionally, IIA observed that some of the other amendments, such as the automated voice response charge and the real-time market check charge, lacked sufficient specificity. With respect to the automated voice response charge, IIA specifically objected to the reference in the fee schedule that these charges would be calculated on a "device equivalency" basis. Although IIA welcomed the use of the concept and believed that it appropriately recognizes vendor innovation, it believed that the fee schedule should specify exactly to what vendor services it would apply. IIA similarly was concerned that the application of the real-time market check charge had not been indicated clearly.

In its letter Amex responded to each of these concerns. First, Amex clarified the three new dissemination methods in the "Other Services" category[8] and explained that charging the broker-dealer or vendor for these uses of the data on a "device equivalency" basis meant the charges would be calculated by determining the total number of data requests that can be processed at the same time by the automated equipment used.[9] Amex also stated that under the new fee schedule, the customers offered these services by their broker-dealers no longer would be considered "subscribers" and thus would not be subject to the standard subscriber fees and subscriber agreements required under the Plan. The new fee schedule thus would make these services more widely available to individual investors who otherwise might not be willing or able to pay the regular subscriber fees.

Amex also justified raising the analysis programs charge, which is levied for use of Network B data in analysis programs leading to purchase/sell or other trading decisions, including arbitrage, options analysis and other trading programs. Amex stated that this charge has not been raised since it was established 10 years ago. Amex believes the increase corrects an inequitable allocation of the computer program charges that, until now, have been borne primarily by those vendors paying for stock table and operation control programs.

IV. Discussion

Rule 11Aa3-2(c)(2) under the Act requires the Commission to approve an amendment to an effective national market system plan if it finds that the amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act. Section 11A(a)(1)(C)(iii) of the Act states that "[i]t is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure * * * the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities." As a general matter, these standards require that fees charged under the CTA and the CQ Plans be fair and reasonable. The Commission believes the amendments meet these standards.

First, the fees for "Other Services" were in effect under experimental authority granted the CQS and CTA before the Commission granted temporary effectiveness. Moreover, making these fees a permanent part of the CTA and CQS Network B Plan fee structure will enable a greater number of investors to receive last sale and quotation data at significantly lower cost. These new charges should encourage innovation among broker-dealers and investors in creating new methods of providing information to customers.

The Commission believes that these charges, as clarified in Amex's August 25, 1987, letter, are sufficiently defined. The Commission believes that the new charges are a legitimate attempt to bring the CTA/CQS Network B fee schedules into line with the innovations of the vendor industry. Originally, the fee schedules were based primarily on the notion that subscribers accessed the data through simple interrogation methods and low speed tickers. As IIA noted in its comment letter, rapid innovation in the industry has caused this approach to be seriously outmoded. The Commission believes that the "Other Services" charges are appropriately based on a usage notion, just as are the interrogation unit charges. For example, the fee schedule provides that vendors or broker-dealers that provide automated voice response service for customers will pay

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[6] The Commission recently approved similar changes to the CTA and CQ Plans Network A fee schedules. *See* Securities Exchange Act Release No. 24130 (February 20, 1987), 52 FR 6413 (March 3, 1987).

[7] *See* IIA June 5, 1987, letter. Several of the comments IIA made went beyond the scope of the proposed amendments and thus are not dealt with here.

The primary purpose of the second letter was to summarize a meeting between Amex and IIA to discuss IIA's concerns about the amendments. The third comment letter stated that IIA was satisfied with Amex's explanaton of the perceived ambiguities in and other difficulties with the amendments.

[8] *See* Amex August 25, 1987, letter.

[9] For the new real-time market check category under Other Services, however, the broker-dealer would pay a flat monthly fee of $100.00.

subscriber charges based on the total number of simultaneous customer requests for information from the subscriber's automated system that are possible. The Commission also believes that the CTA/CQS have structured the Other Services charges to be flexible enough to accommodate further innovation without requiring an amendment to the plan each time a vendor or broker-dealer develops a new service or data us. This appears to be a sensible approach.

The Commission also believes that the larger program analysis charges similarly reflect the economic reality that a broker-dealer that uses market data in, for example, its market making program, gets significantly greater use from that data feed than does a individual using an interrogation device. Further, if the CTA/CQS failed to recognize that fact and charged the same fees for interrogation devices and for computer analysis program uses, they would be requiring smaller users of the data to subsidize larger users, a result the Commission would be reluctant to sanction.

The final issue to be addressed is the proposed new non-professional fee. The Commission views the reduction and consolidation of the fees for non-professional receipt of transaction and quotation data to $3.00 per interrogation unit as a substantial reduction and a positive step towards making market information more affordable and, thus, more widely distributed to individual consumers.

V. Conclusion

For the reasons discussed above, the Commission finds the amendments to the CTA and CQS Network B fee schedules to be consistent with the Act, particularly section 11A(a)(1) and Rules 11Aa3–1 and 11Aa3–2.

It is therefore ordered, pursuant to section 11A of the Act, that the Amendments to the CTA and CQ Plans be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: April 12, 1988.

[FR Doc. 88–8572 Filed 4–18–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25570; File No. SR–CBOE–88–04]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Market Maker Support of Exchange Sponsored Automated Programs

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 March 23, 1988 the Chicago Board Options Exchange, Incorporated 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 the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organizations Statement of the Proposed Rule Change

The Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") pursuant to Rule 19b–4, hereby proposes the following rule changes: (Additions are italicized; there are no deletions.)

Obligations of Market Makers

Rule 8.7 No Change.
. . . Interpretations and Policies:
.01–.06 No Change.
.07 Market-Makers are expected to participate in and support Exchange sponsored automated programs, including but not limited to the Retail Automatic Execution System and Auto Quote.

Evaluation of Trading Crowd Performance

Rule 8.12 No Change.
. . . Interpretations and Policies:
.01 No Change.
.02 The quality of markets shall include consideration of a trading crowd's participation in and support for Exchange sponsored automated programs, including but not limited to the Retail Automatic Execution System and Auto Quote.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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 specificd in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to clarify that market-maker's performance includes participation in and support for Excange sponsored automated programs. In particular, the Exchange has been promoting the use of its Retail Automatic Execution System ("RAES") and Auto Quote. In available series, RAES provides automatic execution for small customer orders at the disseminated bid in the case of a sale, or offer in the case of a buy. In other contexts, the Commission has recognized the public benefits of this automatic execution system.

Auto Quote allows market-makers to apply an algorithm for the automatic updating of market quotes. To the extent utilizled, Auto Quote assures against the dissemination of stale quotations in inactive option series. Other automated programs are also under consideration, which like RAES and Auto Quote, will be designed to enhance market quality. Market-makers are expected, as part of their responsibilities, to participate in these programs.

The Exchange believes that the proposed rule change is consistent with the provisions of the Securities Exchange Act of 1934 ("the Act") and the rules and regulations thereunder, including in particular section 6(b)(5) in that the proposed rule change is intended to enhance the quality of markets and provide a more efficient market mechanism.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action.

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 by withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 May 10, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 11, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-8573 Filed 4-18-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25571; File No. SR-CBOE-88-03]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Accelerated Approval to Proposed Rule Change

On February 25, 1988, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to extend the pilot program in CBOE's Retail Automatic Execution System ("RAES")[3] in equity options for four months. The RAES equity options pilot has been in place since October 1986 pursuant to Commission approval.[4]

The Exchange proposes to extend the pilot program in RAES in equity options through June 30, 1988 or until RAES for equities is approved on a permanent basis.[5] Additionally, the Exchange proposes to extend the use of RAES, as it deems appropriate, in up to an additional 105 equity option classes (the remainder of equity classes not now subject to the pilot).[6] The Exchange believes that extending RAES trading to additional equity classes will enable additional public customers to take advantage of RAES' automatic execution facilities. The Exchange believes that the continuation and expansion of the RAES program in equity options is appropriate and in the public interest. The extension of this pilot will enable the Exchange to continue the RAES pilot without interruption and to extend the use of RAES to additional equity option classes.

The CBOE has requested accelerated approval of the proposed rule change. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the proposal in the Federal Register in that the system for equity options has not experienced significant problems during the course of the pilot.[7] Moreover, the Commission believes that orders for other individual equity options, not presently utilizing RAES, will similarly benefit from the efficiencies of the system. Finally, extension of the system to additional options will allow the CBOE to gain experience with a full system on a pilot basis before such time as the Commission may approve the program on a permanent basis. The Commission has determined to grant accelerated approval to the extension of RAES to additional classes in that (1) it will increase the efficiency of options order routing, and (2) reduce broker-dealer confusion as to which options classes subject to the RAES system.

For the above reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, in particular the requirements of section 6[8] and the rules and regulations thereunder.

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 persons, other than those that may be withheld 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 20549. 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 May 10, 1988.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.[10]

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1986).

[3] RAES automatically executes public customer market and marketable orders of a certain size against participating market makers in the CBOE trading crowd at the best bid or offer reflected in the CBOE quotation system. A more detailed description of RAES is provided in Securities Exchange Act Release No. 21695 (January 28, 1985), 50 FR 4823, and No. 22015 (May 6, 1985), 50 FR 19832.

[4] Securities Exchange Act Release No. 23490 (August 1, 1986), 51 FR 28788.

[5] The Commission currently is reviewing CBOE's proposal to allow RAES' use, on a permanent basis, in equity options. *See* File No. SR-CBOE-87-35, noticed in Securities Exchange Act Release No. 34-24916 (September 11, 1987), 52 FR 35506.

[6] 19 additional equity option classes were added to the Exchange proposal of 86 equity classes in order that RAES could be extended to all existing equity classes traded on the CBOE. Telephone conversation between Nancy R. Crossman, Associate General Counsel, CBOE, and Mark McNair, Staff Attorney, Division of Market Regulation, SEC, March 21, 1988.

[7] A report by the Commission's Division of Market Regulation, *The October 1987 Market Break: A Report by the Division of Market Regulation*, U.S. Securities and Exchange Commission (February 1988), noted problems in the options small order execution systems during the market break. While these problems primarily related to the systems' capacity to handle index options orders, RAES did experience a decrease in the number of market makers who elected voluntarily to participate in the system for equity options during the week of October 19, 1987. The CBOE presently is studying means to increase market maker participation levels and ensure the continued availability of its RAES system during periods of high volatility. Before approving the RAES system for equity options on a permanent basis, the Commission expects that the CBOE will have put in place the necessary enhancements to ensure increased market maker participation.

[8] U.S.C. 78f (1982).

[9] 15 U.S.C. 78s(b)(2) (1982).

[10] 17 CFR 200.30-3(a)(12) (1985).

Dated: April 11, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-8574 Filed 4-18-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25586; File No. SR-DTC-88-4]

Self-Regulatory Organizations; Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on March 29, 1988, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change. The proposal includes collateralized mortgage obligations ("CMOs") as eligible securities in DTC's Same Day Funds Settlement ("SDFS") Service. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

On July 9, 1987, the Commission approved, on a temporary basis, a DTC proposal that established DTC's SDFS Service.[1] The SDFS Service provides full depository and transaction settlement services for certain securities transactions settling in same-day funds. Initially, only transactions involving municipal notes with a maturity of one year or less were eligible for the SDFS Service. DTC stated that based upon initial performance and DTC participant requests it would consider expanding the SDFS Service to include other transactions.[2]

Pilot operation of the SDFS system began on June 26, 1987, with transactions in municipal notes. The number of eligible municipal note issues adn volume of transactions processed, including several primary distributions by book-entry, has guadually increased. Bsed upon SDFS Service performance and participant requests, DTC has expanded the SDFS Service to include zero coupon bonds backed by U.S. Government securities, municipal bonds with demand ("put") options and medium-term notes.[3] To date, DTC has not experienced, nor is it aware that SDFS participants and settling banks have experienced any significant operational problems in using the SDFS system.

DTC represents that it has acted to ensure accurate collateralization of CMO transactions.[4] Prior to making eligible CMOs for the SDFS Service, DTC will contract with a third-party vendor of securities evaluation services to obtain daily information on the value of CMOs. SDFS settlement prices as well as quotations from SDFS participants would be potential additional information sources for determining the value of these securities.

The proposal also provides that DTC's mandatory book-entry receipt procedure applies to transactions in CMOs. Under DTC's book-entry receipt procedure, DTC's facilities cannot be used to reclaim a book-entry delivery for the sole reason that the delivery has been by book-entry, except where the parties to the trade had agreed to settle the trade by a physical delivery and the trade confirmation so specified.

DTC believes the proposed rule change is consistent with the requirements of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions that settle in same-day funds. Furthermore, DTC believes the proposal effects a change in the SDFS Service that (1) does not adversely affect the safeguarding of securities or funds in DTC's custody or control and (2) does not significantly affect the respective rights or obligations of DTC or persons using the SDFS Service. DTC designates that part of the proposed rule change relating to the applicability of its mandatory book-entry receipt procedures as a stated policy practice or interpretation with respect to the meaning, administration, or enforcement of DTC's existing procedures for reclaiming book-entry deliveries.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of 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 Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR-DTC-88-4.

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 maybe withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing (File No. SR-DTC-88-4) and of any subsequent amendments also will be available for inspection and copying at DTC's principal office.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: April 13, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-8575 Filed 4-18-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25575; File No. SR-NSCC-88-01]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change

The National Securities Clearing Corporation ("NSCC") on January 19, 1988, filed a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). As described below, the proposal would authorize NSCC to provide clearing services for foreign securities. Notice of the proposal appeared in the **Federal Register** on March 3, 1988.[1] No

[1] Securities Exchange Act Release No. 24669 (July 9 1987), 52 FR 26613.

[2] Transaction to be included would involve the following securities: (1) zero coupon bonds based on U.S. Government securities; (2) municipal bonds with short-term demand ("put") options; (3) CMOs, (4) auction-rate and tender-rate preferred stock and notes, and (5) medium-term notes.

[3] *See* Securities Exchange Act Release No. 25478 (March 17, 1988) 53 FR 9530 (medium-term notes); Release No. 25317 (February 5, 1988) 53 FR 4249 (municipal bonds with short-term demand ("put") options); Release No. 25031 (October 15, 1987) 52 FR 38982 (zero coupon bonds).

[4] DTC requires collateralization of each SDFS Service transaction. DTC tracks continuously the value of each participant's collateral by obtaining market value data from bank lenders, third-party vendors of that information, from its participants, and from settlement values of SDFS securities transactions. On each SDFS Service transactions, DTC will "haircut" (or discount the value of) SDFS securities coming into a participant's account. A receiving participant must have sufficient collateral to cover the difference between the value paid for the SDFS securities and their discounted value.

[1] Securities Exchange Act Release No. 25396 (February 25, 1988), 53 FR 6902.

comments were received. This order approves the proposal.

1. Description of the Proposal

The proposal would authorize NSCC to provide: (1) Comparison services for transactions in foreign securities, and (2) member-to-member receive and deliver instructions for transactions in such securities.[2] NSCC would compare transactions in such securities in its current over-the-counter comparison system. The compared transactions then would enter NSCC's proposed Foreign Securities Accounting Operation ("FASO"), which would be similar to NSCC's current Balance Order Accounting Operation.

In FASO, NSCC would: (1) Net transactions in foreign securities on a member-to-member basis; [3] and (2) issue member-to-member receive and deliver settlement instructions, which would signify the netted position of each member with respect to its transactions with another member in each foreign security in which it had activity. All netted trades would settle at a uniform price, with a resulting cash clearing adjustment through NSCC. NSCC would charge its regular comparison fees for this service, as well as a separate fee of $2 per trade side for each compared trade. Some trades would be processed without netting. Trade-for-trade processing would apply to: (1) Transactions identified as "special trades," and (2) all transactions compared or otherwise entered into on the fourth day after trade date ("T+4") or thereafter.[4]

NSCC, under the proposal, would not guarantee the settlement of NSCC transactions or the payment of clearance cash adjustments. In the event any NSCC member should fail to make settlement with NSCC, NSCC would: (1) Reverse its foreign security clearing cash adjustment debits and credits with that member, and (2) nullify the netted member-to-member foreign securities receive and deliver instructions issued that day with respect to that member.

NSCC states, however, that in all other respects FASO receive and deliver instructions would be treated like balance orders. NSCC emphasizes, in particular, that, unless it should provide otherwise, it would conduct the member-to-member netting in the same manner as it conducts net balance orders with respect to: (1) The issuance of netted member-to-member receive and deliver instructions, (2) the establishment of a uniform settlement price, and (3) the calculation of a foreign security clearance cash adjustment.[5]

2. NSCC's Rationale for the Proposal

The proposed rule change would allow NSCC, for the first time, to compare and net transactions in foreign security issues. NSCC believes that the proposal would pose no burden on competition. NSCC states that the proposal is consistent with the Act, particularly section 17A of the Act, in that it would promote the prompt and accurate clearance and settlement of securities transactions.

3. Discussion of the Proposal

The Commission believes that the proposal is consistent with the Act and that it should promote the prompt and accurate clearance and settlement of securities transactions.[6] The Commission also believes that the proposal will extend centralized clearing services to transactions in foreign securities and thereby constitute a significant step forward in establishing more efficient, more effective, and safer clearing and settlement procedures, as was contemplated by Congress in the 1975 amendments to the Act.[7]

The Commission notes, however, that NSCC would not guarantee transactions under the proposal. NSCC would be relying on its ability to reverse debits and credits to a defaulting member's account as a means to avoid potential losses to itself. Because FASO processing would centralize adjustments at NSCC, payment errors and multiple member defaults would pose risks to NSCC. To protect itself against those risks, NSCC would require members using FASO to contribute to the NSCC's clearing fund. Clearing fund requirements would be based on the inclusion of a member's cash adjustments inot the following formula: (1) 2½% of a member's average daily settlement debits and credits or (2) 5% of a member's daily envelope settlement system's debits, whichever is greater, subject to certain adjustments.[8] Under the circumstances, this appears to be a matter of business judgment for NSCC. In virtually all other respects, the Commission understands that NSCC would be applying the well-established legal and operating procedures of its Balance Order Accounting Operation.

4. Conclusion

For the reasons discussed in this Order, the Commission finds that NSCC's proposed rule change is consistent with the Act, particularly section 17A of the Act in that it would promote the prompt and accurate clearance and settlement of securities transactions.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–NSCC–88–01) be, and hereby is, approved.

For the commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: April 12, 1988.

[FR Doc. 88–8569 Filed 4–18–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25576; File No. SR–OCC–87–22]

Self-Regulatory Organizations; Options Clearing Corp.; Filing of Proposed Rule Change

Pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 11, 1987, Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change described below. The proposal would give OCC greater flexibility in dealing with financially troubled Clearing Members and in responding to Clearing Member insolvencies. The Commission is publishing this notice to solicit comments on the proposal.

I. Description of the Proposal

The proposed rule change would give OCC additional alterntatives in dealing with Clearing Members that are experiencing financial or operational difficulties and would give OCC greater flexibility in dealing with Clearing

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[2] NSCC's proposal would provide that with respects to contracts for foreign securities, they may be submitted to NSCC for processing as long as they do not contravene requirements of section 5 of the Securities Act of 1933. *See* proposed NSCC Rule 5, section 1.

[3] Under trade-for-trade processing, settlement and delivery are handled directly between trading partners, on a contract-by-contract basis.

[4] NSCC rules defines a "special trade" as a transaction where both buyer and seller agree to settle on a trade-for-trade basis or where NSCC designates settlement on a trade-for-trade basis. *See* NSCC Procedures, Section II.B.1. (final paragraph). *See also* Securities Exchange Act Release No. 25212 (December 18, 1987), 52 FR 48894.

[5] For rules governing NSCC's Balance Order Accounting Operation, *See* NSCC Procedures, Section V.

[6] *See* section 17A(b)(3)(F) of the Act.

[7] *See* section 17A(a) of the Act; S. Rep. 249, Doc. No. 75, 94th Cong. 1st Sess., 53–55 (1975).

[8] For full details on required clearing fund contributions, *see* NSCC's Procedures, Section XIV.A.I.

Member failures, particularly in extraordinary market conditions. Specifically, the proposal would amend OCC Rule 305 regarding restrictions on certain transactions and positions, and Rules 1104 and 1106 dealing with suspension of a Clearing Member. Additionally, the proposal would amend Article VIII, section 5 of OCC's By-Laws with respect to application of OCC's Clearing Funds.

The proposed amendments to Rule 305 would expand OCC's authority in dealing with Clearing Members that are experiencing financial or operational difficulties. Currently, under Rule 305, OCC's Chairman or President can restrict those members' opening transactions and require such Clearing Members to reduce or eliminate uncovered short positions.[1] The proposal, among other things, would extend OCC's authority to unsegregated long positions [2] and any short positions, whether covered or uncovered.[3] The proposal also would permit OCC to require financially troubled Clearing Members to hedge unsegregated long positions or uncovered short positions as an alternative to liquidation. Additionally, the proposed change to Rule 305 would clarify that OCC's authority to require the transfer of accounts or positions maintained by the Clearing Member with OCC to another Clearing Member includes accounts maintained by customers with the Clearing Member, *e.g.*, market-maker or specialist accounts.

[1] Such action must be based on a determination by OCC's President or Chairman that the financial or operational condition of the member makes such action necessary or advisable for the protection of OCC, other OCC members, or the general public. OCC's Interpretations and Policies list nine non-exclusive situations that would justify action under Rule 305. *See also* Chicago Board Options Exchange Rules 4.10 and 13.3, and New York Stock Exchange Rule 709, which authorize restrictions on exchange members' options activity. Rule 305(b) enables an affected member to appeal and be heard before OCC's Margin Committee.

[2] Although long positions represent assets rather than liabilities, unsegregated long positions reduce OCC's margin requirements. If a troubled Clearing Member carried large concentrations of unsegregated long positions in volatile options, a decrease in the value of those positions might create a margin deficiency that the Clearing Member would be unable to satisfy with other forms of margin.

[3] Although covered short positions pose no direct risk to OCC, the maintenance of such positions for the accounts of margin customers could pose a risk to a financially troubled Clearing Member, because customers would be exposed to margin calls which they might not be able to meet in the event of a decline in the value of the underlying asset (*e.g.*, corporate equity securities, foreign currency or U.S. Treasury securities). OCC states in its filing that it would not anticipate using the authority under the proposal for covered short positions carried in cash accounts.

The proposed changes to Rule 1104 would give OCC greater flexibility in dealing with suspended Clearing Members in extraordinary market conditions. Generally, in the event of OCC's suspension of an OCC Clearing Member, current policy would require OCC promptly to convert all of the Clearing Member's margin deposits to cash. In extraordinary market conditions, it might not be possible to convert some types of margin deposits (*e.g.*, common stocks) to cash in an orderly manner. Therefore, proposed Rule 1104(b) would enable OCC to defer liquidation of a suspended member's margin deposits.

The proposed changes to Rule 1106 also would give OCC increased flexibility in dealing with positions maintained for a suspended Clearing Member. Currently, under Rule 1106, OCC's policy is to effect an immediate liquidation of a failed firm's options positions. Because of the size and nature of a suspended Clearing Member's options positions or a lack of market liquidity, liquidation could be difficult and it might be advisable to maintain the positions. Thus, proposed Rule 1106(d) would authorize the Chairman or President of OCC to determine to maintain positions that would otherwise be closed out.[4]

The proposal would enable the President or Chairman of OCC to authorize hedge transactions to protect OCC against a decline in the value of the margin deposits OCC had determined not to liquidate or the open positions OCC had elected to maintain (*i.e.*, unsegregated long positions or short positions).[5] Additionally, the proposal would broaden the range of hedging transactions that OCC may engage in. In addition to hedge positions consisting of options relating to the same underlying interest, proposed amendments to OCC Rule 1106(e) would authorize hedge positions in options on similar underlying interests, as well as hedge positions in the underlying interest and futures contracts. Hedging transactions could include the establishment of variable hedges that would be adjusted from time to time during the life of the hedged positions. All hedging transactions would be required to be reported to OCC's Margin Committee on a daily basis. Moreover, because a single hedging position may relate to positions in more than one account, Rule 1106(e) would authorize OCC to make binding allocations among accounts carried by a suspended Clearing Member of reasonable costs, gains and losses incurred by OCC in hedging transactions.

[4] Action under Rule 1106(d) could affect the timing and outcome of a liquidation by the Securities Investor Protection Corporation ("SIPC") where a suspended Clearing Member has public customers. OCC states in its filing that in response to a request by SIPC staff, the proposal provides that OCC would apply proposed Rule 1106(d) only in cases where OCC determines that an outright liquidation of a suspended Clearing Member's positions would likely result in a loss to OCC.

[5] The proposal would require that any action taken pursuant to Rules 1104(b), 1106(d) or 1106(e) be reported to OCC's Board of Directors within 24 hours.

The proposed rule change also would amend Article VIII, Section 5 of OCC's By-Laws regarding application of OCC's Clearing Funds. Specifically, the proposal would eliminate the current 24-hour waiting period between the time when a loss is charged to a defaulting Clearing Member's Clearing Fund deposit and the time when any excess may be charged *pro-rata* against the Clearing Fund deposits of non-defaulting Clearing Members. Additionally, the proposal would permit OCC to borrow against the Clearing Funds to finance hedging transactions.

II. OCC's Rationale for the Proposal

OCC believes that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act. OCC states in its filing that the proposed rule change would serve the public interest by providing OCC with greater flexibility in dealing with financially troubled Clearing Members and responding to Clearing Member insolvencies.

Generally, OCC believes that the preferred response to Clearing Member failure is to close out the firm's short positions and liquidate assets. OCC believes, however, that in extraordinary circumstances a close-out or liquidation could be difficult or inadvisable. OCC believes that an effective hedge at a reasonable cost, either in options, the underlying interests or futures contracts, could, in such circumstances, be a viable alternative to liquidation. Moreover, with respect to Clearing Members experiencing financial or operational difficulties, OCC believes the proposal would give it needed flexibility by enabling OCC to require a financially troubled Clearing Member to: (1) Reduce or eliminate unsegregated long positions as well as covered or uncovered short positions; or (2) hedge unsegregated long positions or uncovered short positions as an alternative to liquidation.

OCC also believes that amendments to application of the OCC Clearing Funds are appropriate. Currently, OCC must wait 24 hours before a loss in excess of a defaulter's Clearing Fund and margin deposits may be charged *pro-*

rata against the Clearing Fund deposits of non-defaulting Clearing Members. OCC believes this waiting period creates unnecessary delay and should be eliminated. OCC states that the waiting period was probably intended to give a defaulting Clearing Member time in which to respond to OCC's demand to make up the deficiency in its Clearing Fund deposit. However, OCC believes the likelihood that a defaulting Clearing Member would be able to cure its default within 24 hours is small. Moreover, the 24-hour delay could impair OCC's ability to pay non-defaulting Clearing Members.

OCC also believes it is appropriate to borrow against the Clearing Funds to finance hedging transactions without reference to OCC's ability to realize on a suspended firm's margin and Clearing Fund deposits. OCC believes that in any case where OCC has the authority to hedge it is preferable to finance hedging transactions by borrowing against the Clearing Fund than by making a *pro-rata* charge.[6] OCC states in its filing that the ultimate outcome of the hedging program, and thus the final amount of the *pro-rata* charge, if any, will not be determinable until all open positions of the suspended Clearing Member and all hedge positions are closed out.

III. Request for Comments

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed change or institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons can submit written comments about the proposal by filing six copies of their comments with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing, 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 withheld 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 20549. Copies of the filing also will be available for inspection and coping at OCC's principal office. All comments should refer to file number SR–OCC–87–22 and should be submitted by May 10, 1988.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: April 11, 1988.

[FR Doc. 88–8568 Filed 4–18–88; 8:45 am]

BILLING CODE 8010-01-M

[6] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920. In setting out the standards to be used by the Division of Market Regulation in reviewing and making recommendations with respect to the registration of clearing agencies, the Division has stated that, in addition to the defaults of participants, the Clearing Fund should be used to protect the clearing agency from losses [not including day-to-day operating expenses] such as losses of securities not covered by insurance or other resources of the clearing agency. The Release specifically provides for temporary use of a limited portion of the Clearing Fund to meet unexpected and unusual clearing agency requirements for funds. However, the Release goes on to suggest that a portion of the Clearing Fund may be used for a legitimate purpose for a longer period of time, provided that: (i) The funds are properly protected; (ii) the funds are used to facilitate the process of clearance and settlement; and, (iii) participants and the Commission specifically approve such use during registration proceedings. *Id.*, 45 FR at 41929. Nevertheless, in an Order concerning the structure of National Securities Clearing Corporation's ("NSCC") Clearing Fund, the Commission recognized that the universe of permissible uses is larger than unanticipated uses and specially approved certain other uses. In that Order, the Commission approved NSCC's short-term pledge of Clearing Fund assets other than cash as collateral for loans to satisfy temporary losses or liabilities incident to its clearance and settlement business. In NSCC's program, the pledge of Clearing Fund assets, if not repaid within 30 days, results in the pledge being deemed a Clearing Fund assessment under NSCC's rules. Securities Exchange Act Release No. 19230 (November 10, 1982), 47 FR 51969.

[Release No. 34-25577; SR-PSE-88-02]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange Inc. Relating to the Amendment of PSE Rules Concerning the Granting of Compensation or Gratuities Given by Exchange Members to Employees of the Exchange or to Those of Other Exchange Members

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 26, 1988 the Pacific Stock Exchange Inc. 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 the self-regulatory organization. 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

On June 24, 1985, the Securities and Exchange Commission ("SEC") approved Pacific Stock Exchange ("PSE" or "Exchange") Rule Filing 85–10 (Release No. 34–22167) which amended PSE Rule VIII, section 2(d), which changed the requirement of prior Exchange approval, before a member's registered employee engages in dual employment. At this time the PSE is submitting this rule filing for the purpose of amending PSE Rule VIII, sections 3(d) ("Member Compensation Only") and 3(g) ("Gratuities, Employees") in order to clarify and conform their meanings in relation to previously amended section 2(d).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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. The self-regulatory organization 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 the Proposed Rule Change

On June 24, 1985, the Securities and Exchange Commission approved PSE Rule Filing 85–10 (Release No. 34–22167), which amended PSE Rule VIII, section 2(d).

Rule VIII, section 2(d) originally provided that for a registered employee of a member to engage in "any other business or be employed by another employer in any capacity" it would be necessary for the employee to receive written permission from the Exchange. As amended, section 2(d) eliminated the requirement of Exchange permission and substituted the single requirement that any such dual employment be approved by the principal employer or member organization of the registered employee. This was based upon the recognition that prior approval by the Exchange imposes an unnecessary burden upon the PSE, since the member

is the party with the most logical and direct interest in supervising and approving such an action and, unlike the PSE, the member is in the best position to determine if a conflict of interest exists. This view point was recognized by New York Stock Exchange ("NYSE") in the adoption of their rule 346(b).[1]

Following a recent inquiry from a PSE member firm concerning section 2(d), it became apparent that Rule VIII, sections 3(d) "Member Compensation Only" and 3(g) "Gratuities, Employees," should be amended to clarify their meanings in relation to previously amended section 2(d). It is the belief of the Exchange that the substance of the proposed amendments reflects a need to clarify the language of these sections so as to make them internally consistent and not to make any substantive changes.

The change proposed to section 3(d) reflects the desire to eliminate required Exchange approval and substitute the clarification that such compensation be granted only if the member has previously complied with the requirements of section 2(d). As stated in the discussion of section 2(d), this reflects the recognition that Exchange approval instead of member approval is inconsistent and illogical when one considers which entity is really in the best position to monitor this activity.

The changes proposed in section 3(g) reflect a desire to clarify that Exchange permission is only required where the proposed gratuity is extended to an Exchange employee. When such gratuity is given to a non-exchange employee, then the Exchange is not required to give its consent.

The proposed rule changes are consistent with section 6(b) of the Securities Exchange Act of 1934 in general, and section 6(b)(5) in particular, in that it helps to prevent unfair discrimination between customers, issuers, brokers or dealers or an attempt to regulate outside of any authority which is not conferred on the Exchange by the title of the Act or in matters outside the administration of the Exchange.

(B) Self-Regulatory Organization's Statement on the Burden on Competition

The proposed rule change imposes no burden on competition.

[1] The Commission notes that NYSE Rule 350, with some exceptions, continues to require written consent of both the employee and the Exchange for compensation or gratuities given by one member to a floor employee of another member or member organization.

(C) Self-Regulatory Organization's Statement on Comments on the proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received by the Exchange.

III. Date of Effectiveness of the Proposed Rule Change and Timing

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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 withheld 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 5th 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 May 10, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: April 12, 1988.

[FR Doc. 88-8570 Filed 4-18-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16366; (812-7005)]

College and University Facility Loan Trust Two; Application

April 14, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: The First National Bank of Boston, not in its individual capacity, but solely as trustee (the "Applicant" or "Owner Trustee"), on behalf of the College and University Facility Loan Trust Two (the "Trust").

Relevant Sections of the 1940 Act: Exemption requested under Section 6(c) from the provisions of sections 10(h), 14(a), 16(a), 17(a), 18(a), (c) and (i) and 32(a) of the 1940 Act.

Summary of the Application: The Applicant, serving as Owner Trustee on behalf of the Trust, seeks an order to permit the issuance and sale by the Trust of debt securities and senior and junior certificates of beneficial interest in the Trust, collateralized by certain loans originated by the United States Department of Education ("ED"), in connection with the Federal government's loan asset sale program.

Filing Date: The Application was filed on March 18, 1988, and amended on March 25, 1988, April 5, 1988 and April 13, 1988.

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 May 2, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant 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, NW., Washington, DC 20549; Applicant, c/o Christopher J. Kell, Esq., Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, New York 10022-9932.

FOR FURTHER INFORMATION CONTACT: Karen L. Skidmore, Special Counsel (202) 272-3023; or Regina Hamilton, Staff Attorney (202) 272-2856 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The 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 which may be contacted at (800) 231–3282 (in Maryland (303) 258–4300).

Applicant's Representations

1. The Trust has been organized as a Massachusetts business trust pursuant to a Declaration of Trust (the "Declaration of Trust") filed by The First National Bank of Boston with the Commonwealth of Massachusetts on March 11, 1988, and will register with the Commission as a closed-end, management investment company. The Trust has been organized for the purpose of acquiring certain loans (the "Loans") from ED, pursuant to a loan sale agreement (the "Loan Sale Agreement"), in exchange for equity interests and proceeds of debt securities to be issued by the Trust. The Loans were made by ED, under the College Housing Loan Program ("CHLP") and the Academic Facilities Loan Program ("AFLP") (or made, and assigned to ED, by the United States Department of Housing and Urban Development, by the former United States Department of Health, Education and Welfare under AFLP or by the former United States Housing and Home Finance Agency under CHLP) to public and private universities and colleges throughout the United States.

2. The Loans will be sold by ED pursuant to congressional directives found in Section 7005 of the Omnibus Budget Reconciliation Act of 1986 (the "Budget Act"), Pub. L. 99–509, section 7005, 100 Stat. 1874, 1949 (1986), and section 783 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (the "Education Act"), 20 U.S.C. 1132i–2 (1987) and Section 3101 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, section 3101, H.R. 3545, 100th Cong., 1st Sess., 133 Cong. Rec. H12114 (1987) (the "Budget Act"), and in accordance with the Guidelines for Loan Asset Sales, dated February 9, 1988, prepared by the Federal Credit Policy Working Group and issued by the United States Office of Management and Budget (the "Guidelines"). The Budget Act and the Education Act require ED to net approximately $314 million from certain dispositions of its loan assets during fiscal year 1988.

3. The proposed transaction has been designed to implement the objectives of the Budget Act and the Guidelines by: (a) Providing for the sale of Loans without recourse to the Federal Government; (b) providing for the transfer of servicing responsibilities for the Loans to a private section loan servicer;' and (c) ensuring that interest on the securities issued to finance the acquisition of the Loans by the Trust (and thus, in effect, the future interest payments on the Loans themselves) will be subject to full Federal income tax.

4. The proposed transaction that is the subject of this application involves the issuance of securities by the Trust to finance the Trust's purchase of the Loans from ED. All Loans but three [1] have been selected on a random selection basis from ED's portfolio of non-delinquent loans (the "Portfolio"). In order to be eligible for selection from ED's Portfolio, the Loans must not have been delinquent (*i.e.*, more than 30 days late in the payment of any installment of principal and interest) during the one-year period preceding March 31, 1988. Pursuant to the Loan Sale Agreement between the Owner Trustee and ED, ED will sell the Loans to the Trust in exchange for: (a) The proceeds from the issuance of certain debt securities (the "Bonds"); and (b) senior and junior certificates evidencing ownership of beneficial interests in the net assets of the Trust (the "Certificates").

5. Under the Loan Sale Agreement, ED will be required during a limited period of time following issuance of the Bonds ("Warranty Period"), to cure the breach of any warranty; to deliver to the Trust substitute Loans conforming to ED's warranties under the Loan Sale Agreement; or, in ED's sole discretion, to make cash payments in lieu thereof. Under the Loan Sale Agreement, the substitute Loans will be required to have equal or greater principal amounts and equal or greater cumulative payments of principal and interest as of any "Payment Date" (each date on which principal of and/or interest on the Bonds is due) as the Loans not meeting ED's warranties ("Non-Conforming Loans") that are being replaced. The obligation of ED to substitute Loans may be subject to the feasibility of ED's delivering from the loans remaining in its Portfolio, Loans conforming to its warranties and having the required principal amounts and cash flow. Notice will be given by the Bond Trustee and the Owner Trustee to the Bondholders and the Certificateholders of such substitution within five days after such substitution as contemplated by section 26(a)(4)(B) of the 1940 Act. With the exception of such limited right of curing the breach, loan substitution and cash payment, the loans will be transferred to the Trust without recourse of any kind to ED.

6. The Trust will issue four maturities of collateralized sequential pay Bonds in an aggregate principal amount currently estimated at $445,000,000 expected to be issued at a discount to yield net proceeds of approximately $292,000,000. The Bonds will be secured by a first priority perfected security interest in the Loans pursuant to an indenture (the "Indenture") between the Owner Trustee and a corporate trustee acting as bond trustee (the "Bond Trustee"). The Bond Trustee and Owner Trustee and any successors thereto will be banks and will be required to have at all times an aggregate capital, surplus and undivided profits of not less than $50,000,000.

7. The Bonds will be registered under the Securities Act of 1933 (the "1933 Act") pursuant to a registration statement (the "Registration Statement") on Form N–2. The Indenture will be qualified under the Trust Indenture Act of 1939 ("1939 Act"). The Bonds will be rated in the highest rating category ("AAA" or "Aaa") by at least one nationally recognized statistical rating organization ("Rating Agency") not affiliated with the Trust. The Trust will offer the Bonds through the underwriters (the "Underwriters") named in the prospectus included in the Registration Statement (the "Prospectus").

8. The Bonds are expected to be issued as sequential pay Bonds in four maturities. Each maturity of Bonds will have a fixed interest rate and stated maturity date and will be amortized on each Payment Date in a manner such that, assuming principal of and interest on the Loans is paid when due, the overcollateralization levels specified in the indenture will be maintained (to the extent of available moneys therefor under the Indenture). Interest on the Bonds will be payable on each Payment Date. Aggregate principal amounts, initial public offering prices, maturity dates and interest rates of each maturity will be determined in light of market conditions at the time of the pricing of the Bonds so as to achieve the highest return to ED both in terms of net proceeds of the Bonds and the value of the Certificates. The Bonds are currently expected to be issued at substantial discounts below par if it is determined at the time of pricing of the Bonds that the sale of the Bonds with original issue discount will reduce the yield on the Bonds below the yield which the Bonds would bear if issued at par. The Bonds

[1] Three Loans were not selected randomly due to their large size relative to other loans in the Portfolio and because they were analyzed separately by the Rating Agencies.

will not be subject to redemption prior to maturity other than through amortization of principal as described above.

9. The Certificates will evidence ownership of beneficial interest in the net assets of the Trust and accordingly will entitle holders to shares of the cash flow of the Trust after the funding of certain funds and payment of all principal and interest payments on the Bonds then due. Such distributions to the Certificateholders shall be made semi-annually on or immediately following each Payment Date in respect of the Bonds. It is expected that ED will retain the Certificates until a performance history for the Trust has been established.

10. For certain tax reasons, described in the application, the Certificates will be issued by the Owner Trustee in two classes with different rights as to distributions. On each date on which the Owner Trustee makes a distribution to the Certificateholders, one class of Certificateholders will receive a specified return on the Certificates' value assigned to that Class prior to distributions to the other class. The Certificates will be transferable, subject to the limitations described below and in the application. The Certificates will not be redeemable at the option of the holders. The holders of the Certificates will not be liable for payment of principal of, or interest on, the Bonds or for any other liabilities of the Trust.

11. The Owner Trustee will contract with General Electric Capital Corporation (formerly, General Electric Credit Corporation) (the "Servicer") as servicer of the Loans under a servicing agreement ("Servicing Agreement"). Under the Servicing Agreement, the Servicer will administer, service, collect and enforce the Loans on behalf of the Trust. The Servicing Agreement will not permit the Servicer to resign so long as any Loans are outstanding except upon a determination that its duties thereunder are no longer permissible under applicable law or if the Servicer has obtained a successor Servicer satisfactory to the Bond Trustee and the Owner Trustee, the appointment of which will not cause the rating on the Bonds to be reduced. The fees of the Servicer will be disclosed in the Prospectus. The Owner Trustee will assign the Loans and its rights under the Loan Sale Agreement and the Servicing Agreement to the Bond Trustee pursuant to the Indenture as security for the Bonds.

12. The Indenture will provide for three Funds, the Revenue Fund, the Expense Fund and the Liquidity Fund (the "Funds"), and for one account, the Breach Account. The Revenue Fund, to be held by the Bond Trustee under the Indenture as security for the Bonds, will be credited with all payments due on the Loans and received after May 2, 1988 (the "Cut-Off Date"), net of the fees of the Servicer, all earnings on the Investment Agreement (described below and in the application), and any required transfers from the Expense Fund, the Liquidity Fund and the Breach Account. Amounts credited to the Revenue Fund will be applied on each Payment Date in the following order of priority: First, to pay principal at maturity of and interest on the Bonds due on such Payment Date; second, to pay scheduled Administrative Expenses ("Administrative Expenses" will include fees and expenses of the Bond Trustee, the Trust's auditors and accountants, and of the Owner Trustee, and Servicer Advances (defined below) not previously paid) then due and not previously paid from the Expense Fund; third, to fund the Expense Fund to the required level set forth in the Indenture; fourth, to fund the Liquidity Fund to the required level set forth in the Indenture; fifth, to pay Administrative Expenses not paid pursuant to the second application of funds described above; and sixth, to amortize principal of the Bonds in the manner described in paragraph 8. Any remaining amounts in the Revenue Fund on such Payment Date (other than certain specified amounts received prior to such date) will be promptly paid over by the Bond Trustee to the Owner Trustee for distribution to the Certificateholders after payment of any expenses of the Trust not payable by the Bond Trustee as Administrative Expenses (including any indemnities payable by the Trustee).

13. The Expense Fund will be available to be used on a monthly basis for reimbursement of advances made by the Servicer for the purpose of collecting amounts due on the Loans or for the protection of collateral that is security for any Loan ("Servicer Advances") and, on each Payment Date, to pay scheduled payments on the Bonds, as necessary, and Administrative Expenses. The Liquidity Fund, as necessary, will be used to pay scheduled payments on the Bonds and to pay scheduled Administrative Expenses not previously paid from the Expenses Fund or the Revenue Fund. The Breach Account will hold cash received from ED with respect to certain defective Loans. Amounts in the Breach Account will be available to pay any shortfalls in scheduled payments on such Loans up to the Cash Value of the Breach (as defined in the Application) for such Loans. Any amounts remaining in the Breach Account after all Bonds have been paid in full will be transferred to Ed.

14. In order to provide for earnings on the Funds referred to above without creating investment discretion in the Bond Trustee, the Indenture will require the Bond Trustee prior to the issuance of the Bonds, to enter into an investment agreement (the "Investment Agreement") with a financial institution. Such institution will be (a) a national bank, or a banking institution organized under the laws of any State or the District of Columbia the business of which is substantially confined to banking and is supervised by the State banking commission or similar official, or a foreign bank subject to substantially the same supervision under the International Banking Act of 1978; (b) an insurance company, subject to the supervision of the insurance commissioner, bank commissioner or any agency or officer performing like functions, of any State or the District of Columbia; or (c) a United States government agency or government sponsored corporation, in each case, whose obligations are rated in, or eligible to be pledged as collateral for securities rated in, the highest rating category ("AAA" or "Aaa") by the same Rating Agency or Agencies which rate the Bonds. In order to assure that the Trust receives a fair return on the Investment Agreement, the Trust will ask qualified institutions to submit bids shortly before the Bonds are priced. The identity of the Investment Agreement provider ("Provider") selected will be disclosed in the Prospectus.

15. The Investment Agreement will have a term equal to the final maturity of the Bonds. The Indenture will require the Bond Trustee to invest under the Investment Agreement all amounts held under the Indenture and credited from time to time to the Funds except that $50,000 in the Expense Fund may be invested in securities described in paragraph 17. The Investment Agreement will bear a fixed or variable interest rate or rates specified in the Investment Agreement and disclosed in the Prospectus. If the Investment Agreement bears a variable interest rate or rates, such rate or rates will be pegged to a published financial index specified in the Indenture and disclosed in the Prospectus. At no time, however, will such variable rate or rates be permitted to fall below the weighted average rate on the Loans.

16. The Investment Agreement will not be terminable or assignable by the Provider, except that if the Provider is a bank which is a principal subsidiary of a

bank holding company, the Provider may be permitted to assign its obligations under the Investment Agreement to its parent corporation if the long-term debt rating of the parent by each Rating Agency rating the Bonds is at least as high as that of the Bonds (*i.e.*, AAA or Aaa, the same as the original Provider). The Investment Agreement will terminate if the Bond Trustee or the Owner Trustee should inform the Provider that any Rating Agency rating the Bonds has indicated that such Rating Agency has determined that the continuation of the Investment Agreement with the Provider will adversely affect such Rating Agency's rating of the Bonds. In the event of such termination, the Bond Trustee will enter into a substitute investment agreement that would not result in a reduction in the rating of the Bonds, if such an agreement can be procured. Any such substitute agreement would be permitted only with the financial institutions described above. If the Investment Agreement is with an entity other than a United States government agency or government sponsored corporation, in the event that in excess of twenty-five percent of the assets of the Trust are invested in the Investment Agreement, the Bond Trustee will be required, in order to maintain the Trust's status as a regulated investment company under the Internal Revenue Code, to invest any such excess amounts in an additional investment agreement meeting all of the requirements of a substitute agreement specified above or, if no such additional investment agreement can be procured, in the kinds of investments described in paragraph 17 for instances when no substitute agreement can be procured.

17. If no such substitute investment agreement can be procured, amounts in the Funds will be invested by the Bond Trustee only in (a) obligations issued by the United States (and supported by its full faith and credit); or (b) purchase agreements with respect to such obligations and overcollateralized on a basis that will not result in a reduction in the ratings of the Bonds. All such investments must mature before the next scheduled distribution date and with respect to $50,000 on deposit in the Expense Fund, such investments must mature monthly. In addition, after final payment of the Bonds, any amounts paid over the Bond Trustee to the Owner Trustee for distribution to Certificate-holders may be invested, pending distribution, in the same investments described above and any demand or time deposit or certificate of deposit which is fully insured by the Federal Deposit Insurance Corparation.

18. The Bonds will not be redeemable at the option of the holders and, except in the event of default on the Bonds followed by an acceleration, holders of the Bonds will not be entitled to compel the liquidation of the Loans in order to redeem the Bonds prior to maturity.

19. At the date of issuance of the Bonds, the principal balance of the Bonds will not exceed the Collateral Value of the Loans (as defined in the application) reduced by an initial reduction factor which is expected to be approximately 93% (which is equivalent to an overcollateralization level expected to be approximately 8%). Payments of principal of the Bonds in accordance with the reduction factors set forth in the Indenture are expected to cause the level of overcollateralization to increase over time. When the maximum overcollateralization level is determined at the pricing of the Bonds, the Applicant undertakes to amend the application in order to inform the SEC of such maximum level. It is expected that the maximum level of overcollateralization will be between 25% and 30%. This level of overcollateralization is required in order to obtain the highest investment grade rating on the Bonds.

20. Neither the holders of the Certificates, the Owner Trustee nor the Bond Trustee will be able to impair the security afforded by the Loans to the holders of the Bonds. Without the consent of each Bondholder to be affected, the Indenture may not be amended so as to: (a) Change the stated maturity of any Bond; (b) reduce the principal amount of or the rate of interest on any Bond; (c) change the priority of payment on any maturity of Bonds; (d) impair or adversely affect the Loans securing any maturity of Bonds; (e) permit the creation of a lien ranking prior to or on a parity with or subordinate to the lien of the Indenture with respect to the assets pledged under the Indenture; or (f) otherwise deprive the Bondholders of the security afforded by the lien of the Indenture. The sale of the Certificates by ED or any other holder will not alter the payment of cash flows under the indenture, including the amounts to be deposited in the Funds or Breach Account created pursuant to the Indenture to support payments of principal of and interest on the Bonds.

21. The interests of the Bondholders will not be compromised or impaired by the ability of the Trust to issue the Certificates, and there will not be a conflict of interest between the Bondholders and the holders of the Certificates in the Trust for several reasons, including the following:

(a) The Indenture will subject the Loans, the various Funds and the Breach Account held under the Indenture, and the Investment Agreement to a first priority perfected security interest in favor of the Bond Trustee for the benefit of the Bondholders. The Indenture will further provide that no amounts may be released from the lien of the Indenture to be remitted to the Owner Trustee (or the holders of Certificates) on any Payment Date until: (i) The Bond Trustee has made the scheduled payment of principal of and interest on the Bonds on such Payment Date; (ii) all Administrative Expenses then due have been paid; (iii) any required deposits have been made to the Expense Fund, the Liquidity Fund and the Breach Account; and (iv) the Bond Trustee has paid principal of the Bonds on such Payment Date in the manner described in paragraph 8.

(b) The holders of the Certificates will be entitled to receive current distributions representing the residual payments on the Loans in accordance with the terms of the Indenture and the Declaration of Trust. Except for such rights to receive residual payments, the holders of the Certificates will have no rights in, or discretionary control over, the Trust while the Bonds are outstanding other than the right to replace the Owner Trustee for breach of fiduciary duty, willful misfeasance, bad faith, gross negligence or reckless disregard of its duties under the Declaration of Trust and to replace the Trust's auditors with respect to the responsibilities of the auditors other than those arising under the Indenture. The holders of the Certificates will have the right to replace the Servicer for breach of the Servicing Agreement only after all Bonds have been paid.

(c) The Bonds will only be issued if they have been rated in the highest rating category by at least one Rating Agency not affiliated with the Trust.

22. The Trust expects to make certain payments to cover various costs to be paid or reimbursed at the closing of the sale of the Bonds and Certificates, as well as various ongoing costs and expenses, all such costs and expenses being fully described in the application and Prospectus. Should the Trust expect to make any other payments not described in the application, Applicant will submit an amendment to this application to the Commission requesting that those fees be exempted from the provisions of section 26(a)(2) of the 1940 Act and stating that the

amounts thereof will be disclosed in the Prospectus.

23. Upon payment of the Bonds in full and the discharge of the Indenture, any remaining assets of the Trust held by the Bond Trustee will be transferred to the Owner Trustee. Any cash assets will then be distributed to the holders of the Certificates. Any remaining Loans will be retained by the Owner Trustee and cash flows from the Loans will be distributed by the Owner Trustee to the holders of the Certificates at least monthly on a pass-through basis after payment of the fees and expenses of the Owner Trustee, the Servicer and the Trust's accountants and auditors. Upon final payment of the Loans, any remaining assets of the Trust will be distributed to the Certificateholders and the Trust will be terminated.

24. In order to allow the Trust to register with the Commission as a closed-end management investment company, exemptive relief is required from the provisions of the 1940 Act specified below.

Applicant's Legal Conclusions

1. Section 10(h)

Section 10(h) of the 1940 Act applies certain of the restrictions of section 10 (a), (b) and (c) of the 1940 Act to the board of directors of the depositor of a registered management company which is an unincorporated company not itself having a board of directors, as will be the case with the Trust. ED, by conveying the Loans to the Trust, might be deemed to be the depositor of the Trust. However, ED, as a Federal department in the Executive Branch, has no board of directors nor can it elect or appoint a board of directors. Except for its limited rights as a Certificateholder, ED would not have any discretion over the administration of the trust under the Declaration of Trust and the Indenture. Moreover, the Trust will operate as a passive entity without the traditional methods of management and investment.

2. Section 14(a)

Section 14(a)(1) of the 1940 Act provides that no investment company shall make a public offering of securities of which such company is the issuer unless such company has a net worth of at least $100,000. On the date of issuance of the Bonds and the certificates, the aggregate scheduled payments of principal of and interest on the Loans plus the amount on deposit in the Funds will exceed the aggregate scheduled payments of principal of and interest on the Bonds by substantially more than $100,000. Thus, the net worth of the Trust will exceed $100,000 on the date of issuance of the Bonds and the Certificates. Prior to the issuance and delivery of the Bonds to the Underwriters, the Underwriters will agree to purchase the Bonds subject to customary conditions of the closing. The Underwriters will not be entitled to purchase less than all of the Bonds. Accordingly, either the offering will not be completed at all or the Trust will have a net worth in excess of $100,000 on the date of issuance of the Bonds and the Certificates. Based on the determination of the independent evaluator, it is not anticipated that the net worth of the Trust will fall below that minimum level until the Bonds and the Certificates have been retired.

3. Section 16(a)

Section 16(a) of the 1940 Act requires that no person shall serve as director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company. The powers of the Bond Trustee and the Owner Trustee are so circumscribed that neither the Bond Trustee nor the Owner Trustee should be deemed a director within the meaning of section 2(a)(12) of the 1940 Act. Election or subsequent ratifications of the Owner Trustee or the Bond Trustee are not necessary in the public interest or to protect investors, and the additional expense for the Trust is not justified. The Trust will be a passive entity that will not require investment management. Similar to a unit investment trust, neither the Owner Trustee nor the Bond Trustee will be authorized to manage the Trust's portfolio of Loans. The activities of the Owner Trustee will be carefully limited to receipt of payments from the Bond Trustee while the Bonds are outstanding and of payments on the Loans thereafter and to making current distributions to certificateholders of the amounts received. Moreover, the Trust has agreed to comply with section 26 of the 1940 Act as if it were a unit investment trust, including the requirements in that section regarding entities acting on behalf of the Trust and the limitations on expenses set forth therein. Finally, exemption from section 16(a) of the 1940 Act is necessary in light of the exemption requested from section 18(i) of the 1940 Act discussed below to permit the issuance of only non-voting securities.

4. Section 17(a)

An exemption from section 17(a) of the 1940 Act is sought to permit the Trust to acquire Loans from ED in exchange for the certificates and the proceeds of the Bonds issued by the Trust and to effect substitutions for Non-Conforming Loans thereafter and to make cash payments to the Trust in lieu thereof or to cure the breach. Such payments must be in amounts adequate to replace the cash flows from the Non-Conforming Loans or, in cases where the defects affect collateral for Loans, to replace the defective collateral. Cash payments received by the Trust from ED for Non-Conforming Loans which are not deposited in the Breach Account will be treated like other revenues received in respect of the Loans and will be deposited to the credit of the Revenue Fund and invested under the Investment Agreement. Cash payments received by the Trust from ED for Non-Conforming Loans to replace defective collateral securing Loans will be deposited to the credit of the Breach Account and invested under the Investment Agreement and, if necessary, in government obligations and repurchase agreements with respect to government obligations. Amounts on deposit in the Breach Account will be available for transfer to the Revenue Fund on each Payment Date to the extent of any shortfalls in the payments on such Loans up to the Cash Value of the Breach of such Loan on deposit in the Breach Account. Consequently, provision for such payments will provide protection for Bondholders, in the event defects in the Loans are identified, at least as great as the protection afforded by the other remedies available to the Trust under the Loan Sale Agreement. Section 17(a) of the 1940 Act prohibits specified transactions between certain persons related to a registered investment company and such investment company. ED would otherwise be prohibited from entering into the above transactions under section 17(a) of the 1940 Act because ED may either be considerd an "affiliated person" under section 2(a)(3) of the 1940 Act or a "promoter" under section 2(a)(30) of the 1940 Act.

Section 17(a) of the 1940 Act specifically excepts sales which involve securities deposited with the trustee of a unit investment trust. Although the Trust is not a unit investment trust, its structure is very similar to one in that both entities involve the deposit into a trust by a related person of a predetermined fixed portfolio of securities. Moreover, the transactions would meet the requirements of section 17(b) of the 1940 Act, the provision granting the Commission authority to exempt transactions under section 17(a) of the 1940 Act, in that the terms of the exchange will be reasonable and fair

and do not involve overreaching on the part of any person concerned.

In order to establish the reasonableness and fairness of the price of the Loans received by ED, ED's financial advisor will advise ED that the proceeds of the Bonds, less transaction costs, plus the Certificates representing the residual interest in the Trust, represent a fair price for the Loans. In order to establish that the price paid by the Trust for the Loans is reasonable and fair to the Trust, the Trust will retain an independent, qualified evaluator (not including any Underwriter for the Bonds or the Certificates) which will determine that the consideration to be paid by the Trust for the Loans is reasonable and fair.

5. Section 18(a)

Section 18(a) of the 1940 Act prohibits a registered closed-end investment company from issuing any class of senior securities unless certain asset coverage requirements are met. The Trust will have an asset coverage ratio immediately after the sale of the Bonds and Certificates currently expected to be approximately 8 percent. The proposed transaction, in view of the overcollaterization of the Trust and the nature of the investors in the Certificates, adequately protects against the dangers of excessive leveraging, the concern underlying section 18(a) of the 1940 Act. As a condition to the issuance of the Bonds, the Trust will obtain a determination from an independent, qualified evaluator that the aggregate scheduled payments on the Loans plus the initial deposit in the Funds and reinvestment earnings will exceed the aggregate scheduled payments of principal and interest on the Bonds by an amount adequate to provide for payment of the Bonds in light of the payment terms and past experience on the Loans. Moreover, the Certificates may only be sold to sophisticated institutional investors having sufficient expertise to evaluate the risks involved in acquiring either Class of Certificates.

6. Section 18(c)

The Applicant is seeking an exemption from section 18(c) of the 1940 Act to permit the Trust to issue the Bonds in four maturities. Section 18(c) of the Act makes it unlawful for any registered investment company to have more than one class of senior security of debt or equity. Here, each maturity of Bonds will be secured by collateral equally and ratably with every other maturity and all maturities will have the benefit of the same covenants and rights on default. Moreover, no action by the Owner Trustee or the Certificateholders can affect the timely payment of Bonds, and no action by the Bondholders of one maturity can affect the timely payments of Bonds of any other maturity. All of the assets of the Trust will be pledged to the Bond Trustee and the Owner Trustee will not be permitted to borrow against the assets of the Trust. Further, Loans will not be permitted to be removed from the Trust or substituted for other assets, except under limited circumstances.

7. Section 18(i)

Under section 18(i) of the 1940 Act, a registered investment company may not issue stock which does not have equal voting rights with every other class of stock. The Trust will operate essentially as a unit investment trust, to which section 18(i) of the 1940 Act does not apply. Given the lack of discretion vested in the Certificateholders and the Owner Trustee, voting rights would have very little actual effect on the operation of the Trust and would not enhance investor protection.

8. Section 26

Applicant has agreed that it will be subject to section 26 of the 1940 Act (with certain exceptions) as though it were a unit investment trust within the meaning of section 4(2) of the 1940 Act. With respect to sections 26(a)(2) (B) and (C), the Applicant has requested to be able to pay certain costs and expenses described in the application. The Applicant believes that the payment of those costs and expenses will be fair and reasonable in light of the requirements of the offering and sale of Bonds and the ongoing servicing requirements for the Loans. To the extent any administrative costs and fees are determined on the basis of a percentage of outstanding Bonds, the Applicant has specifically considered the fairness of such percentage formula under the Indenture and that the practice of determining fees in this manner is fair within the meaning of Section 26 of the Act. The Applicant further believes that the granting of the Order sought by this application will satisfy the provisions of section 26(b) of the 1940 Act relating to substitution of collateral to the extent Loan substitution is made as described in the application.

9. Section 32(a)

Sections 32(a)(1) and 32(a)(3) of the 1940 Act require the independent public accountant filing the investment company's financial statements to be selected annually by a vote of a majority of the board of directors and ratified annually by a majority of the voting securities of the investment company. The Trust, however, will not have voting securities. The initial auditors will be selected and disclosed in the Prospectus prior to the issuance of the Bonds and Certificates. Both the Bond Trustee and the Owner Trustee will have the right to remove the auditors for the Trust. Moreover, the Trust will not engage in any investing or reinvesting of securities, except to a limited extent. As a result, the Trust's financial statements will be primarily records of receipts and distributions, and audits of the Trust's financial statements will be straightforward and will not involve complex auditing and accounting principles. Therefore, the additional expense of ratification of the auditors would not be justified given the nature of the Trust.

10. Section 6(c)

For the reasons stated above, the requested exemptions are consistent with the section 6(c) standards. The relief requested is appropriate in the public interest, because: (a) The Trust's activities will promote the public interest by permitting ED to sell its loan assets pursuant to the directives under the Budget Act and the Education Act and will provide investors with a highly rated security; (b) the Trust may be unable to proceed fully and in a timely manner with its proposed activities if the uncertainties concerning the applicability of the above sections are not removed; and (c) the activities of the Trust are not the types of activities intended to be prevented by the 1940 Act.

Applicant's Conditions

Applicant agrees that is the requested order is granted it will be expressly conditioned on the following conditions:

A. Conditions Relating to the Bonds

(1) The Bonds will be registered under the 1933 Act. The Indenture will be qualified under the 1939 Act.

(2) The Loans, the Funds, the Breach Account and the investments securing the Bonds ("Collateral") will be held by the Bond Trustee. The Bond Trustee may not be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Trust. The Bond Trustee will be provided with a first priority perfected security interest in the Collateral. The Servicer will not be affiliated with either the Bond Trustee or the Owner Trustee.

(3) The initial collateral for the Bonds will consist only of the Loans and any moneys initially deposited to the credit of the Funds which are invested in the Investment Agreement. No Loans may

be released from the lien of the Indenture prior to the payment of the Bonds (except upon the acceleration of defaulted Loans) or substituted except pursuant to the limited substitution obligations of ED under the warranties of ED contained in the Loan Sale Agreement described in the application. Any such substitute collateral may consist only of Loans and will: (a) Be of equal quality as the Non-Conforming Loans being replaced in that they will be covered by the warranties of ED contained in the Loan Sale Agreement (subject to the limitation on ED's obligation to replace Non-Conforming Loans during the Warranty Period) and will be selected from ED's Portfolio in a manner so as to not adversely affect the rating on the Bonds; (b) have equal or greater principal amounts and cash flows as the Non-Conforming Loans being replaced, subject to the cash payment option and credit to ED for prior substitutions of Substitute Loans with cumulative payments in excess of the Non-Conforming Loan being replaced; and (c) meet the conditions set forth in paragraph (2) above. The replacement of such Substitute Loans for any Non-Conforming Loans will not affect the level of collateralization on which the original rating or ratings on the Bonds were based or affect the rating or ratings on the Bonds.

(4) The Bonds will be rated in the highest bond rating category by at least one Rating Agency that is not affiliated with the Trust. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

(5) No lees often than annually, an independent public accountant will audit the books and records of the Trust and, in addition, report on whether the anticipated payments of principal of and interest on the Collateral continue to be adequate to pay the principal of and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Bond Trustee and the Owner Trustee and will be made available to the Bondholders and the Certificateholders.

(6) At the time of the deposit of the Collateral with the Trust, the scheduled payments to be received by the Bond Trustee on the Collateral will be more than sufficient to make all payments of principal of and interst on the Bonds. The Collateral will pay down as the Loans are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds (except upon the acceleration of defaulted Loans and substitutions of Non-Conforming Loans).

B. Conditions Relating to the Certificates

(1) The Certificates will be offered and sold to sophisticated institutional investors. Such institutional investors may include one or more banks, savings and loan associations, insurance companies, pension funds and other large institutional investors (*i.e.*, having assets of not less than $100,000,000), that have such knowledge and experience in financial and business matters so as to be capable of evaluating the risks of the purchase of the Certificates because of direct and significant experience in making investment in similar asset-backed securities ("Eligible Investors"). (Any Mutual Funds which may purchase Certificates will continue to be required to satisfy themselves that purchase of such Certificates complies with the provisions of section 12(d)(1) of the 1940 Act.)

(2) The sale of the Certificates will occur pursuant to private placements exempt from the registration requirements of the 1933 Act under section 4(a) thereof.

(3) Sales of the Certificates will be to a limited number, not exceeding 100, of sophisticated institutional investors. Each purchaser of Certificates will be required to represent that it is acquiring its Certificates for investment for its own account and not as nominee for undisclosed investors and to agree that it will not resell its Certificates except to other Eligible Investors pursuant to private placements subject to the same representation and agreement and subject to the above limitation on the number of Certificateholders. (The Declaration of Trust will provide that the Owner Trustee may not register any transfer of Certificates if, following such transfer, the number of Certificateholders would exceed one hundred.)

(4) Neither the Trust nor any Certificateholder will be affiliated with the Bond Trustee. No holder of a controlling interest in the Trust (as such term is defined in Rule 405 of the 1933 Act) nor the Trust, will be affiliated with either (a) any custodian which may hold the Collateral on behalf of the Bond Trustee; or (b) any statistical Rating Agency rating the Bonds.

(5) The Certificates will not be redeemable at the option of the holders.

C. Other Conditions

(1) All administrative fees and expenses in connection with the administration of the Trust will be paid or provided for in a manner satisfactory to each Rating Agency rating the Bonds. The Trust will provide for the payment of administrative fees and expenses incurred in connection with the issuance of the Bonds and the administration of the Trust by the following methods:

(a) The Expense Fund will be established with the Bond Trustee under the Indenture to provide for the payment of such fees and expenses. Such fees will be either fixed amounts or will determined as a percentage of the aggregate outstanding principal amount of the Bonds, or a combination of both, in any case as determined prior to the establishment of the Expense Fund. Thereafter, the Bond Trustee will look solely to the Expense Fund for the payment of certain fees and expenses and, to the extent there are not sufficient moneys in the Expense Fund, then to the Revenue Fund. The procedure used to calculate the anticipated level of fees and expenses will provide for funds sufficient to pay such fees and expenses.

(b) The Bonds will be secured by Collateral, the value of which is in excess of the amount necessary to make payments of principal and interest on the Bonds, and such excess or a portion thereof will be applied to the payment of such fees and expenses, and may be used in combination with the other method described above. The anticipated level of fees and expenses will be more than adequately provided for by the above methods.

(2) Applicant agrees that the Trust will comply with the provisions of section 26 of the 1940 Act as though it were a unit investment trust within the meaning of section 4(2) of the 1940 Act, provided that for purposes of sections 26(a)(4) (A) and (B) of the 1940 Act, the Bond Trustee and the Owner Trustee shall perform the recordkeeping and notice responsibilities of the depositor or its agent as provided therein, and the requirements of section 26(a)(2) (B) and (C) shall not prevent the Trust from paying certain expenses described in the application.

(3) The Owner Trustee will be required under the Declaration of Trust, and, to the extent stated in the application, the Board Trustee will be required under the Indenture, to monitor compliance by the Trust with the requirements of the 1940 Act and to fulfill the Trust's ongoing obligations under the 1940 Act including, without limitation, the filings of periodic reports with the Commission as and when required by the 1940 Act.

(4) To alleviate any potential conflict of interest between the Bondholders and the Certificateholders, the Applicant further agrees that the above

representations regarding the Certificates may be made express conditions to the requested Order.

Therefore, Applicant requests that the Commission enter an order pursuant to section 6(c) of the 1940 Act exempting the Trust from sections 10(h), 14(a), 16(a), 17(a), 18(a), (c) and (i) and 32(a) of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-8623 Filed 4-18-88; 8:45 am]

BILLING CODE 8010-01-M

Goldcor, Inc., 500-1; Order of Suspension of Trading

April 13, 1988.

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the securities of Goldcor, Inc. ("Goldcor"), and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, Goldcor's financial condition, assets, business operations, securities transactions, and other matters, and the Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of Goldcor.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the common stock of Goldcor, over-the-counter or otherwise, is suspended for the period from 9:00 a.m., April 14, 1988, through 11:59 p.m. (EDT) on April 23, 1988.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-8567 Filed 4-18-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16363; 812-6954]

New England Mutual Life Insurance Co. et al.

April 13, 1988.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: New England Mutual Life Insurance Company ("The New England"), New England Variable Life Insurance Company ("NEVLICO"), New England Variable Life Separate Account ("Variable Account"), and New England Securities Corporation ("New England Securities").

Relevant 1940 Act Sections and Rules: Exemptions requested under section 6(c) from those provisions of the 1940 Act and those rules specified in paragraph (b) of Rule 6e-2 thereunder, other than sections 7 and 8(a), and, in addition, exemptions from the provisions of sections 2(a)(32), 2(a)(35), 22(c), 26(a)(1), 26(a)(2), 27(a)(1), 27(a)(3), 27(c)(1), 27(c)(2), 27(d) and 27(f) and Rules 6e-2(b)(1), (b)(12), (b)(13)(i), (b)(13)(ii), (b)(13)(iii), (b)(13)(iv), (b)(13)(v), (b)(13)(viii), (c)(1) and (c)(4) and 22c-1 and 27f-1.

Summary of Application: Applicants seek an order to permit them to issue variable life insurance policies, in reliance on 1940 Act Rules 6c-3 and 6e-2, that provide for: (i) A death benefit that will not always vary based on investment experience; (ii) both a contingent deferred sales charge and a sales charge deducted from premiums; (iii) a contingent deferred administrative charge; (iv) deduction of cost of insurance charges from the policy's account value, charges for substandard mortality risks and incidental insurance benefits, and a minimum death benefit guarantee charge; (v) values and charges based on the 1980 Commissioners' Standard Ordinary Mortality Tables; and (vi) the holding of mutual fund shares funding the Variable Account without the use of a trustee, in an open account arrangement and without a trust indenture.

Filing Date: January 8, 1988.

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 Commission by 5:30 p.m., on May 6, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the Commission, 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 Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. The New England, NEVLICO, the Variable Account and New England Securities, 501 Boylston Street, Boston, MA 02117.

FOR FURTHER INFORMATION CONTACT: Heidi Stam, Staff Attorney (202) 272-3017 or Lewis B. Reich, Special Counsel (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from either the Commission's Public Reference Branch in person or the Commission's commercial copier (800) 231-3282 (in Maryland (301) 734-1400).

Applicants' Representations

1. NEVLICO is a wholly-owned subsidiary of The New England, a mutual life insurance company organized in Massachusetts in 1835. The Variable Account is a separate investment account of NEVLICO, and is registered under the 1940 Act as a unit investment trust.

2. Applicants request exemptions from Rule 6e-2(c)(1) and from all sections of the 1940 Act and rules thereunder specified in Rule 6e-2(b) (other than sections 7 and 8(a)), under the same terms and conditions (except as otherwise set forth herein and in the Application) applicable to a separate account that satisfies the conditions set forth in Rule 6e-2(a), to the extent necessary to permit the offer and sale of certain variable life insurance policies ("Policies") in reliance on Rule 6e-2. Applicants request this relief because the death benefit will not always vary based on investment performance, and the Policy contains several other features not originally contemplated by Rule 6e-2.

3. Policy owners have a choice between two forms of death benefit under a Policy. Death benefit Option 1 is the greater of (a) the face amount or (b) the cash value divided by the net single premium factor. Death benefit Option 2 is the greater of (a) the face amount plus any excess of the cash value over the Policy's "tabular cash value" or (b) the cash value divided by the net single premium factor. The net single premium factor is that necessary to qualify the Policy as life insurance for federal income tax purposes. The death benefit under the Policy will vary based on investment experience when the net single premium factor computation of death benefit is applicable. Death benefit Option 2 also varies with investment experience whenever the Policy's cash value exceeds its "tabular cash value."

4. Under the terms of the Policy premiums in excess of the required premiums may be paid, and, if the Policy's cash value exceeds its "tabular cash value," no required premium need be paid (if nonpayment would not result

in any Policy loan exceeding the Policy loan value).

5. The premium and other flexible options under the Policy are a potential benefit to Policy owners. For example, they may be able to make premium payments in accordance with their own personal financial cycle, or at times during the year when they perceive the securities markets to present favorable investment opportunities.

6. Applicants request exemptions from sections 2(a)(35), 26(a)(2), 27(a) (1) and (3), 27(c)(2) and Rules 6e–2(b)(1), (b)(13)(i), (b)(13)(ii) and (c)(4), to the extent necessary to permit a contingent deferred sales charge to be deducted without refunds, as described herein and in the Application, upon surrender, partial surrender or lapse of a Policy. Applicants also request exemptions from sections 2(a)(32), 22(c), 27(c)(1) and 27(d) and Rules 6e–2(b)(12), (b)(13)(iv), (b)(13)(v) and 22c–1 to the extent necessary to permit a contingent deferred sales load and a contingent deferred administrative charge to be deducted, as described herein and in the Application, upon surrender, partial surrender or lapse of Policy.

7. Among other charges, NEVLICO will deduct a premium expense charge of 8% of each premium paid. This deduction is for sales expenses (6%) and state premium taxes (2%). NEVLICO will also deduct a contingent deferred sales charge upon surrender, partial surrender or lapse of a Policy during the first fifteen Policy years. The contingent deferred sales charge is based on the lesser of (a) the sum of the scheduled basic premiums payable up to the date of surrender or lapse, whether or not each such premium has been paid or (b) the sum of the actual premiums paid to date, including the charges for supplementary benefits provided by rider, extra premiums for substandard risk classification and the Policy administrative charge. The maximum percentages are as follows:

For policies which are surrendered or lapse during policy year	The maximum deferred sales charge is the following percentage of one annual basic scheduled premium	Which is equal to the following percentage of the scheduled premiums due to date of surrender or lapse
Entire Year 1	24.00	24.00
Entire Year 2	28.00	14.00
Entire Year 3	32.00	10.67
Entire Year 4	36.00	9.00
Entire Year 5	40.00	8.00
Entire Year 6	44.00	7.33
Entire Year 7	48.00	6.86
Entire Year 8	52.00	6.50
Entire Year 9	56.00	6.22
Entire Year 10	60.00	6.00
Last Month of Year 110	48.00	4.36
Last Month of Year 12	36.00	3.00
Last Month of Year 13	24.00	1.85
Last Month of Year 14	12.00	0.86
Last Month of Year 15 and thereafter	0.00	0.00

8. The deferred administrative charge is designed to compensate NEVLICO for administrative expenses, including medical examinations, insurance underwriting costs and costs incurred in processing applications and establishing Policy records. This charge is assessed in the following amounts:

For policies which are surrendered or lapse during	Charge will be the following amount per $1,000 of face amount
Entire Years 1–10	$5.00
Last Month of Year 11	4.00
Last Month of Year 12	3.00
Last Month of Year 13	2.00
Last Month of Year 14	1.00
Last Month of Year 15 and thereafter	0.00

9. The scheduled premiums under a Policy include an additional amount if the insured is in a substandard risk category or if optional fixed insurance benefits have been added to the Policy by rider. If a scheduled premium is not paid pursuant to the flexibility features of the Policy, 92% of this additional amount will be deducted from the Policy's cash value. The remaining 8% will be collected by NEVLICO out of any unscheduled payments which are made, pursuant to the premium expense charge referred to above.

10. The deferred sales charge, if calculated as a percentage of scheduled premiums due each year, decreases from year to year. The sales charges imposed against scheduled premiums and against unscheduled payments, when separately analyzed, each comply with the "stair-step" requirements. Scheduled premiums are subject to a level charge of 6% through the fifteenth Policy year, which is reduced to zero thereafter, and unscheduled payments are subject to a level charge of 6% throughout the life of the Policy. The continuation of the sales charge against unscheduled payments reflects the fact that NEVLICO incurs greater distribution costs in connection with unscheduled payments than scheduled premiums after the fifteenth Policy year. Moreover, the sales charges are not designed to generate more revenues from later payments than from earlier payments.

11. Applicants assert that the deduction of part of the sales charge and the administrative charge as a deferred charge on surrender, partial surrender of lapse will be more favorable to Policy owners than deduction of the same charge from premiums. First, the amount of the Policy owner's premium payment that will be allocated to the Variable Account, and be available to earn a return for the Policy owner, will be greater than it would be if the sales and administrative charges were deducted from premiums. Second, Applicants represent that the total dollar amount of sales load under a Policy is no higher than would be permitted, by Rule 6e–2(b)(13), if taken entirely as front-end deductions from premiums under a Policy for which all scheduled premiums have been paid, as well as any additional payments actually made by the Policy owner. For a Policy owner who does not lapse or surrender in the early Policy years, the dollar amount of sales load is lower than would be permitted if taken entirely as front-end deductions. Similarly, Applicants represent that the total dollar amount of deferred administrative charge under a Policy is no higher than if the charge were taken in full for the first Policy year and is less for Policy owners who do not lapse or surrender prior to the fifteenth Policy year. Third, the cost of insurance charge imposed will be less than it would otherwise be if the same amount of sales and administrative charges were deducted from premium payments, because the allocation of a greater amount of the Policy owner's premium to the Variable Account reduces the amount at risk upon which the cost of insurance is based. Fourth, if NEVLICO is not permitted to charge a sales load in the form of a contingent deferred charge, it would have to deduct the sales load entirely from the premiums, thereby charging persisting Policy owners more than may otherwise be necessary to recover the distribution costs attributable to such Policy owners. Applicants contend that their charge structure, by contrast, provides greater equity among Policy owners.

12. Applicants request exemptions from sections 26(a)(2) and 27(c)(2) and Rule 6e–2(b)(13)(iii), to the extent necessary to permit deduction from cash value of charges for cost of insurance, substandard risks and incidental insurance benefits, and a minimum death benefit guarantee charge.

13. Cost of insurance charges will be deducted from cash value on the first day of each Policy month at rates that do not exceed those prescribed in the 1980 Commissioners' Standard Ordinary Mortality Tables ("1980 CSO Tables"). Applicants state that deduction of these charges from cash value is reasonable and in accordance with the practice of most other variable life insurance policies.

14. Applicants represent that the deduction of a portion of the charges for substandard risks and incidental insurance benefits from cash value, as described above, is also reasonable and appropriate. If all such charges were required to be deducted solely from premiums, it would be necessary, according to Applicants, for NEVLICO (a) to reduce the premium flexibility under the Policy and/or (b) further limit the classes of insureds for whom the Policy will be available and limit or eliminate the kinds of rider benefits which NEVLICO intends to make available. Applicants argue that these results would be undesirable from the standpoint of purchasers and prospective purchasers of Policies.

15. The minimum death benefit guarantee charge compensates NEVLICO for the risk that NEVLICO assumes in guaranteeing death benefits under the Policies, including the risk that the cash value will not be sufficient to support the guarantees.

16. NEVLICO makes the following representations and undertakings: (A) The level of the minimum death benefit guarantee charge is reasonable in relation to the risks assumed by NEVLICO under the Policy. The methodology used to support this representation is based on an analysis of the pricing structure of the Policies, including all charges, and an analysis of the various risks, including special risks arising out of Policy provisions that allow unscheduled premium payments and skipping premium payments. NEVLICO undertakes to keep and make available to the Commission on request the documents or memoranda used to support this representation. (B) NEVLICO has concluded that the proceeds from the sales charges may not cover the expected costs of distribution. Surplus arising from the minimum death benefit guarantee charge (among other sources) may be used to cover the distribution costs. There is a reasonable likelihood that the distribution financing arrangement of the Variable Account will benefit the Variable Account and Policy owners. NEVLICO undertakes to keep and make available to the Commission on request a memorandum setting forth the basis of this representation. (C) The Variable Account will invest only in management investment companies that have undertaken, in the event they should adopt any plan under Rule 12b–1 to finance distribution expenses, to have a board of directors (or trustees, as appropriate), a majority of whom are not interested persons of NEVLICO, formulate and approve such plan.

17. Applicants request exemptions from section 27(a)(1) and Rules 6e–2 (b)(1), (b)(13)(i) and (c)(4), to the extent necessary to permit cost of insurance to be calculated, for purposes of testing compliance with Rule 6e–2, based on the 1980 CSO Tables.

18. Maximum cost of insurance charges based on the 1980 CSO Tables, which are used under the Policy, are generally lower than those based on the 1958 Commissioners' Standard Ordinary Mortality Table ("1958 CSO Table"). In establishing premium rates and determining reserve liabilities for the Policies, NEVLICO also uses the 1980 CSO Tables. For the most part, this will result in lower charges and higher Policy values than if such deductions were to be based upon the 1958 CSO Table. Furthermore, the mortality rates reflected in the 1980 CSO Tables more nearly approach the mortality experience which NEVLICO believes will pertain to the Policy.

19. Applicants request exemptions from sections 26(a)(1), 26(a)(2) and 27(c)(2) and Rule 6e–2(b)(13)(iii) to the extent necessary to permit the holding of fund shares by NEVLICO and the Variable Account under an open account arrangement, without having possession of share certificates and without a trust indenture or other such instrument.

20. Current industry practice calls for unit investment trust separate accounts, such as the Variable Account, to hold shares of underlying management investment companies in uncertificated form. This practice is thought to contribute to efficiency in the purchase and sale of such shares by separate accounts and to bring about cost savings generally.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–8576 Filed 4–18–88; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Action Subject to Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of Action subject to intergovernmental review under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund nine presently existent Small Business Development Centers (SBDCs) on September 30, 1988. Currently there are 52 SBDCs operating in the SBDC program. The following SBDCs are intended to be refunded, subject to the availability of funds: Delaware, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, New York (Upstate), Texas (Houston), and Vermont. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDCs to be refunded. This publication is being made to provide the State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be accepted through August 17, 1988.

ADDRESS: Comments should be addressed to Ms. Janice E. Wolfe, Deputy Associate Administrator for SBDC Program, U.S. Small Business Administration, 1441 L Street, NW., Wash. DC 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of nine

presently existent Small Business Development Centers (SBDCs) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published four months in advance of the expected date of refunding these SBDCs. Relevant information identifying these SBDCs and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. The SBDC proposal cannot be inconsistent with any area-wide plan providing assistance to small business, if there is one, which has been adopted by an agency recognized by the State government as authorized to do so. Copies of such written comments should also be furnished to Ms. Janice E. Wolfe, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC and SBA for a period of 120 days from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 120-day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commenter prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center (SBDC) Program is a Business Development program of the U.S. Small Business Administration (SBA). The SBDC operates under the general management and oversight of SBA, but with recognition that a partnership exists between the Agency and the SBDC for the delivery of assistance to the small business community. SBDC services shall be provided pursuant to a negotiated Cooperative Agreement with full participation of both parties. SBDCs operate on the basis of a state plan to provide assistance within a state or designated geographical area. The initial plan must have the written approval of the Governor. As a condition to any financial award made to an applicant, non-Federal funds must be provided from sources other than the Federal Government. SBDCs operate under the provisions of Pub. L. 96–302, as amended by Pub. L. 98–395, a Notice of Award (Cooperative Agreement) issued by SBA, and the provisions of this Program Announcement.

Purpose and Scope

The SBDC Program is designed to provide quality assistance to small businesses in order to promote growth, expansion, innovation, increased productivity and management improvement. To accomplish these objectives, SBDCs link resources of the Federal, State, and local governments with the resources of the educational system and the private sector to meet the specialized and complex needs of the small business community. SBDCs also coordinate with other SBA programs of business development and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the state, academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources;

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDCs are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsibile for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a full-time Director. SBDCs must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDCs provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDCs emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise.

These areas may include, but are not limited to: Management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product anaylsis, plant layout and design, agri-business, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State. The SBDC shall also ensure that a full range of business development and technical assistance services are made available to small businesses located in rural areas.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDCs should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDCs should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas are provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must

perform, but not be limited to, the following activities:

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

The Lead SBDC and all SBDC subcenters shall operate on a forty (40) hour week basis, or during the normal business hours of the State or Host Organization, throughout the calendar year. The amount of time allowed the Lead SBDC and subcenters for staff vacations and holidays shall conform to the policy of the Host organization.

Date: April 11, 1988.

James Abdnor,

Administrator.

Addresses of Relevant SBDC Directors

Ms. Helene Bulter, State Director, University, of Delaware, Suite 005—Purnell Hall, Neward, Delaware 19711, (302) 451–2747

Mr. Jerry Owen, State Director, University of Kentucky, 18 Porter Building, Lexington, Kentucky 40506–0205, (606) 257–7668

Mr. John Ciccarelli, State Director, University of Massachusetts, School of Management, Amherst, Massachusetts 01003, (413) 549–4930—Ext. 303

Mr. James L. King, State Director, State University of New York, SUNY (Upstate), State University Plaza, Albany, New York 12246, (518) 443–5398

Mr. Norris Elliott, State Director, University of Vermont, Extension Service, Morrill Hall, Burlington, Vermont 05405, (802) 656–4479

Mr. Ronald Manning, State Director, Iowa State University, College of Business Administration, 137 Lynn Avenue, Ames, Iowa 50010, (515) 292–6351

Dr. John Baker, State Director, Northeast Louisiana University, Administrative Bldg.—Room 2–57, University Drive, Monroe, Louisiana 71209, (318) 342–2464

Dr. Norman Schlafmann, State Director, Wayne State University, 2727 Second Avenue, Detroit, Michigan 48201, (313) 577–4848

Dr. Jon Goodman, Area Director, University of Houston, 401 Louisiana, Eight Floor, Houston, Texas 77002, (713) 223–1141

[FR Doc. 88–8547 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

Action Subject to Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of action subject to intergovernmental review under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund fifteen presently existent Small Business Development Centers (SBDCs) on October 1, 1988. Currently there are 52 SBDCs operating in the SBDC program. The following SBDCs are intended to be refunded, subject to the availability of funds: Alabama, Alaska, Connecticut, Mississippi, Missouri, New York (Downstate), North Dakota, Ohio, Puerto Rico, Texas (Dallas), Texas (Lubbock), Texas (San Antonio), Virgin Islands, West Virginia and Wyoming. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDCs to be refunded. This publication is being made to provide the State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be accepted through August 17, 1988.

ADDRESS: Comments should be addressed to Ms. Janice E. Wolfe, Deputy Associate Administrator for SBDC Program, U.S. Small Business Administration, 1441 L Street, NW., Wash. DC 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically 135.4, SBA is publishing this notice to provide public awareness of the pending application of fifteen presently existent Small Business Development Centers (SBDCs) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published four months in advance of the expected date of refunding of these SBDCs. Relevant information identifying these SBDC and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to each affected State single point of contact which has been established under the Executive Order.

The State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. The SBDC proposal cannot be inconsistent with any area-wide plan providing assistance to small business. if there is one, which has been adopted by an agency recognized by the State government as authorized to do so. Copies of such written comments should also be furnished to Ms. Janice E. Wolfe, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, DC 20416. Comments will be accepted by the relevant SBDC for a period of 120 days from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 120-day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or

furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

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The Lead SBDC and all SBDC subcenters shall operate on a forty (40)

hour week basis, or during the normal business hours of the State or Host Organization, throughout the calendar year. The amount of time allowed the Lead SBDC and subcenters for staff vacations and holidays shall conform to the policy of the Host organization.

Date: April 11, 1988.

James Abdnor,

Administrator.

Addresses of Relevant SBDC Directors

Dr. Jeff Gibbs, State Director, University of Alabama/B'ham, 1717 11th Ave. South, Suite 419, Birmingham, Alabama 35294, (205) 934–7260

Mr. John O'Connor, State Director, University of Connecticut, Box U–41, Room 422, 368 Fairfield Road, Storrs, Connecticut 06268, (203) 486–4135

Dr. Robert Brockhaus, Acting State Director, St. Louis University, 3674 Lindell Boulevard, St. Louis, Missouri 63108, (314) 534–7204

Mr. Terry Stallman, State Director, ND Economic Dev. Commission, Liberty Memorial Building, Bismarck, North Dakota 58505, (701) 224–2810

Mr. Jose Romaguera, SBDC Director, University of Puerto Rico, Box 5253—College Station, Mayaguez, Puerto Rico 00709, (809) 834–3590 or 834–3790

Mr. Ted Cadou, Area Director, Texas Tech University, 2005 Broadway, Lubbock, Texas 79401, (806) 744–5343

Dr. Solomon Kabuka, Jr., SBDC Director, University of the Virgin Islands, Box 1087, St. Thomas, US Virgin Islands 00801, (809) 776–3206

Ms. Janet Nye, State Director, Anchorage Community College, 430 West 7th Avenue, Suite 115, Anchorage, Alaska 99501, (907) 274–7232

Dr. Robert D. Smith, State Director, University of Mississippi, 3825 Ridgewood Road, Jackson, Mississippi 39211, (601) 982–6760

Mr. James L. King, State Director, State University of New York, SUNY (Downstate), State University Plaza, Albany, New York 12246, (518) 443–5398

Mr. Jack Brown, State Director, Ohio Department of Development, 30 East Broad Street, Columbus, Ohio 43266–1001, (614) 466–5111

Dr. Norbet R. Dettman, Area Director, Dallas Community College, 302 North Market, Third Floor, Dallas, Texas 75202–3299, (214) 747–0555

Mr. Henry Travieso, Area Director, University of Texas/San Antonio, San Antonio, Texas 78285, (512) 224–0791

Ms. Eloise Jack, State Director, Governor's Office of Community and Industrial Development, 1115 Virginia Street, East Charleston, West Virginia 25310, (304) 348–2960

Mr. MacRay Bryant, State Director, Casper Community College, 130 North Ash, Suite A, Casper, Wyoming 82601, (307) 235–4825

[FR Doc. 88–8548 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

[License No. 06/06–0186]

Southwest Venture Capital, Inc.; Surrender of License

Notice is hereby given that Southwest Venture Capital, Inc., 2700 East 51st Street, Suite 340, Tulsa, Oklahoma 74105 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Southwest Venture Capital, Inc. was licensed by the Small Business Administration on December 27, 1976.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on April 5, 1988 and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

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

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: April 13, 1988.

[FR Doc. 88–8545 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council; Public Meeting

The U.S. Small Business Administration, Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 4:30 p.m. on Wednesday, May 18, 1988 at the Radisson Hotel, Burlington, Vermont, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Ora H. Paul, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602—(802) 828–4422.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 13, 1988.

[FR Doc. 88–8544 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

Region II Advisory Council; Public Meeting

The U.S. Small Business Administration, Region II Advisory Council, located in the geographical area of Puerto Rico and Virgin Islands, will hold a public meeting at 9:00 a.m. on Friday, May 6, 1988 at the Federal Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico, Room 691, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Wilfred Benitez Robles, District Director, U.S. Small Business Administration, Federal Building, Room 691, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918—(809) 753–4002.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 13, 1988.

[FR Doc. 88–8539 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

Region III Advisory Council, Public Meeting

The U.S. Small Business Administration, Region III Advisory Council, located in the geographical area of Baltimore, Maryland, will hold a public meeting from 5:30 p.m. to 7:30 p.m. Wednesday, June 1, 1988 at the Blue Cross and Blue Shield of Maryland, 2nd Floor, 700 Joppa Road, Towson, Maryland, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Charles J. Gaston, District Director, U.S. Small Business Administration, 10 North Calvert Street, 3rd Floor, Baltimore, Maryland 21202—(301) 962–2054.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 13, 1988.

[FR Doc. 88–8538 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

Region III Advisory Council; Public Meeting

The U.S. Small Business Administration, Region III Advisory Council, located in the geographical area of Clarksburg, West Virginia, will hold a public meeting at 9:00 a.m. on Wednesday, May 18, 1988, at the Monongahela Power Company, Southern Division Office, 801 State Street, Gassaway, WV 26624, to discuss

such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Marvin P. Shelton, District Director, U.S. Small Business Administration, P.O. Box 1608, Clarksburg, WV 26302–1608—(304) 622–6601.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 13, 1988.

[FR Doc. 88–8540 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

Region VII Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VII Advisory Council, located in the geographical area of Des Moines, Iowa, will hold a public meeting at 10:00 a.m. on Tuesday, May 10, 1988 at the Des Moines Botanical Center, 909 East River Drive, Des Moines, Iowa 50316, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Conrad Lawlor, District Director, U.S. Small Business Administration, Federal Building, Room 749, 210 Walnut Street, Des Moines, Iowa 50309—(515) 284–4422.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 13, 1988.

[FR Doc. 88–8541 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council; Public Meeting

The U.S. Small Business Administration, Region IX Advisory Council, located in the geographical area of Las Vegas, Nevada, will hold a public meeting from 10:00 a.m. to 12:00 p.m. on Thursday, May 5, 1988 at the Small Business Administration Office, 301 E. Stewart Ave., Downtown Station Post Office Building, 3rd Floor, Las Vegas, Nevada, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, and others present.

For further information, write or call Elizabeth Sutton, Secretary for the Advisory Council, U.S. Small Business Administration, 301 E. Stewart, P.O. Box 7527, Las Vegas, NV 89125—(702) 388–6611.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 13, 1988.

[FR Doc. 88–8543 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

Region X Advisory Council; Public Meeting

The U.S. Small Business Administration, Region X Advisory Council, located in the geographical area of Portland, Oregon, will hold a public meeting at 10:00 a.m. on Wednesday, May 4, 1988 at the Edith Green-Wendell Wyatt Federal Building, 1220 S.W. Third Ave., Room 1573, Portland, Oregon, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John L. Gilman, District Director, U.S. Small Business Administration, 1220 S.W. Third Ave., Room 676, Portland, Oregon 97204–2882—(503) 294–5221.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 13, 1988.

[FR Doc. 88–8542 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

[License No. 06/06–0295]

MCap Corp; Issuance of a Small Business Investment Company License

On October 27, 1987, a notice was published in the **Federal Register** (Vol. 52, No. 207, Page 41379) stating that an application has been filed by MCap Corp, Dallas, Texas, with the Small Business Administration (SBA) pursuant to the Regulations governing small business investment companies (31 CFR 107.102 (1988)) for a license as a small business investment comany.

Interested parties were given until close of business October 26, 1987, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/06–0295 on March 31, 1988, to MCap Corp to operate as a small business investment company.

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

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: April 13, 1988.

[FR Doc. 88–8546 Filed 4–18–88; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket 45581; Order 88–4–40]

Preliminary Investigation of Texas Air Corp. and its Subsidiaries

April 13, 1988.

Order

The Department is charged under the Federal Aviation Act of 1958 ("Act"), 49 U.S.C. 1301 *et seq.*, with exercising its powers and duties so as to assign and maintain safety as the highest priority in air commerce; to promote a viable, privately owned Unites States air transport industry; and to encourage fair wages and equitable working conditions. Among the Department's duties under the Act are the review of the continuing fitness, willingness and ability of air carriers to engage in air transportation under section 401(r) of the Act. Section 204 of the Act confers on the Department the general powers to conduct investigations as the Department shall deem necessary to carry out its powers and duties. Section 407 empowers the Department to require periodic and special reports from any air carrier, to require any air carrier to answer questions on any matter concerning which the Department may deem information to be necessary, and to have access to all properties, accounts, and documents of any air carrier. The powers conferred by section 407 also apply, where necessary, to persons having a control over, or affiliated with, any air carrier. The Department is also authorized by section 415 of the Act to inquire into the management of the business of any air carrier and to obtain full and complete reports and other information in the exercise and performance of its statutory duties, and is authorized by section 1002(b) to institute investigations on its own initiative concerning any question that may arise under the Act. Finally, the Department is empowered by section 1004 of the Act to issue and enforce subpoenas requiring the attendance and testimony of witnesses and the production of documents

relating to any matter under investigation.

Texas Air Corporation owns and controls several air carriers, including Continental Airlines, Eastern Air Lines, Rocky Mountain Airways, Britt Airways, Bar Harbor Airlines, and Provincetown-Boston Airlines. The recent activities of the Texas Air and its carriers—particularly Continental and Eastern—raise questions concerning whether the carriers can and are disposed to comply with the safety and economic rules applicable to air carriers and, without remedial action, whether they remain fit to provide air transportation. Because this possibility raises serious concerns, we find it necessary to institute an informal preliminary investigation on an expedited basis to inquire into the management of the Texas Air carriers and their corporate parent and affiliates. This investigation is needed, among other reasons, to determine whether the Texas Air carriers' operations are complying with all applicable requirements or whether they contain serious flaws requiring the initiation of a full-blown continuing fitness investigation and/or possible enforcement action.

Areas Requiring Investigation

Section 401(r) of the Act requires that certificated carriers like Continental and Eastern remain fit. The Department has defined fitness as including three elements: A disposition to comply with all legal and regulatory requirements; a financial plan which, if successfully carried out, will allow the carrier to operate without undue risk to the public; and a competent management. Recent events show that the continuing fitness of the Texas Air carriers may require examination.

Analysis of the Texas Air firms' finances and filings with the Securities and Exchange Commission suggests a need to examine the carriers' financial fitness. The financial transactions between Texas Air and the persons controlling Texas Air, on the one hand, and Continental and Eastern, on the other hand, raise questions concerning whether substantial funds and other resources are being diverted from the air carrier subsidiaries. For example, Texas Air moved Eastern's computer reservations system into a separate subsidiary in exchange for a note, the principal amount of which may be less than the system's fair market value. Texas Air also charges both carriers substantial fees for mangement services, fuel purchases, and other activities. In addition, although Texas Air agreed to reimburse Eastern for $16 million of expenses incurred in connection with the Texas Air-Eastern acquisition, Eastern has received no cash and instead holds a non-interest bearing demand note. In March 1987 Eastern purchases unsecured notes issued by a Continental affiliate for their fair market value, $25 million; this transaction would not benefit Eastern's cash position.[1]

These transactions run the risk of weakening the airline subsidiaries, and might therefore place in question Texas Air's commitment to ensuring that its carriers will retain the financial resources necessary for assuring safe and adequate air transportation for the public. This is particularly troublesome in view of the large losses suffered by each carrier in recent periods; Continental, for example, had a loss of $258 million in 1987.

In addition, new questions have been raised concerning whether these carriers' operations entirely satisfy the Federal Aviation Administration's safety requirements. The FAA has today taken enforcement action against Eastern and proposed an $823,500 civil penalty for violations of its safety regulations. Many of those alleged violations are in areas already covered by a recent enforcement settlement of $9.5 million. While the FAA is continuing to conduct its own investigations of any potential safety problems, possible additional violations of safety requirements, if widespread, would also raise substantial questions as to the carriers' continuing disposition to comply with applicable legal requirements.

The Texas Air carriers' compliance disposition has also been called into question by the several district court rulings, some on appeal, that Eastern, under Texas Air's management, has violated its Railway Labor Act obligations, collective bargaining agreements, and a district court injunction.

In view of all the circumstances, the Department believes that the public interest requires that an informal, nonadjudicatory fact-finding investigation be instituted pursuant to the powers conferred on the Department by sections 204(b), 401(r), 407, 415, 1002(b), and 1004 of the Act. The purpose of this inquiry is to inquire into the management and business practices of Continental and Eastern and accumulate data with respect to their operational and financial practices and activities. We find it necessary for the proper conduct of this investigation to extend its coverage to those persons controlling and affiliated with Continental and Eastern. The information produced by this investigation may form the basis for recommendations by the Department with regard to voluntary actions by Texas Air or its subsidiaries, for recommendations to Congress, or for formal proceedings under Title IV of the Act.[2]

The Department finds that an inspection and examination of the accounts, records, and memoranda, including documents, papers, and correspondence, of Continental and Eastern, their affiliates, and the persons controlling them; the taking of depositions and other sworn testimony of their directors, officers, employees, consultants, and financial advisors; and the production of reports may be necessary to the effective conduct of this investigation.

Since this is a preliminary fact-finding investigation which will not result in any adjudicatory action on the part of the Department in this proceeding, it is appropriate to utilize nonpublic procedures similar to those employed pursuant to Part 305 of the Department's rules. 14 CFR Part 305. Moreover, an informal, nonpublic investigation is appropriate because the subject matter encompasses the internal affairs of private corporations and will involve the examination of confidential matters including future economic prospects and forecasts, some of which are protected form disclosure.[3]

The Department will generally follow the procedures set forth in 14 CFR Parts 240 and 305 and 14 CFR 385.22. The Office of the Assistant General Counsel for Aviation Enforcement and Proceedings and the Office of Aviation Analysis, under the direction of the Deputy General Counsel, will be primarily responsible for the conduct of the investigation. Other Department employees may assist in the investigation as well. The terms "investigation attorney," "special

[1] Other transactions may have the effect of transferring cash from Eastern to Continental. Eastern, for example, paid Continental $22.5 million in December 1987 in connection with Continental's agreement to operate services for Eastern in the event of a strike. Eastern must also compensate Continental for its estimated net cost of operating the services.

[2] In response to an order of the Court of Appeals for the District of Columbia Circuit (*Air Line Pilots Ass'n v. U.S. Department of Transportation*, 838 F.2d 563 (D.C. Cir. 1988)), we are conducting a separate investigation in Docket 44346 or the possible need to impose labor protective provisions on our approval of Texas Air's acquisition of Eastern.

[3] The public release of the information obtained will be governed by applicable Department rules.

agent," and "auditor" as used in 14 CFR Parts 240 and 305 and 14 CFR 385.22 shall include any Department employees designated by the Deputy General Counsel for those purposes.

It is our intention that the preliminary investigation be concluded within 30 days.

Accordingly

1. The Department insitutes an informal nonadjudicatory proceeding pursuant to sections 204(a), 401(r), 407, 415, 1002(b), and 1004 of the Federal Aviation Act of 1958, as amended, to inquire into the management and business practices of Continental Airlines, Inc., Eastern Air Lines, Inc., their affiliates, and the persons controlling them, and accumulate, compile, and evaluate information, data, testimony, and the like, with respect to the carriers' past, current, and future operational and financial practices and activities.

2. The investigation ordered in paragraph 1 shall be conducted under 14 CFR 240, 305, and 385.22 by the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings and the Office of Aviation Analysis under the direction of the Deputy General Counsel, together with such persons as the Deputy General Counsel may designate, including employees of any staff components of the Department.

3. Pursuant to 14 CFR 305.10, this order shall be published in the **Federal Register.**

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 88-8447 Filed 4-18-88; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed During the Week Ending April 8, 1988

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45559

Date Filed: April 4, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 2, 1988.

Description: Application of Challenge Air International, Inc. pursuant to section 401 (d)(1) of the Act and Subpart Q of the Regulations, submitting a notice of intent to resume service in domestic, overseas and foreign air transportation.

Docket No. 45560

Date Filed: April 4, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: May 2, 1988.

Description: Application of Tower Air, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for amendment of its certificate of public convenience and necessity to operate Route 401 authorizing it to engage in scheduled foreign air transportation of persons, property and mail, on a permissive basis, between Miami and Orlando, Florida, on the one hand, and Copenhagen, Denmark, Oslo, Norway and Stockholm, Sweden, on the other hand.

Docket No. 45562

Date Filed: April 5, 1988.

Due Date for Answers Conforming Applications, or Motions to Modify Scope: May 3, 1988.

Description: Application of British Airways PLC and British Caledonian Airways Limited, pursuant to section 402 of the Act and Subpart Q of the Regulations requests the Department to issue an order transferring BCAL's foreign air carrier permit authority and amending British Airways' foreign air carrier permit authority.

Docket No. 45569

Date Filed: April 8, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: May 6, 1988.

Description: Application of Virgin Atlantic Airways Limited pursuant to section 402 of the Act and Subpart Q of the Regulations requests an amendment of its foreign air carrier permit to perform scheduled combination air transportation of passengers, cargo and mail between London (Gatwick) and New York (JFK).

Docket No. 45570

Date Filed: April 8, 1988.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: May 6, 1988.

Description: Application of Virgin Atlantic Airways Limited pursuant to section 402 of the Act and Subpart Q of the Regulations requests an amendment of its foreign air carrier permit to perform scheduled combination air transportation of passengers, cargo and mail between London (Gatwick) and Los Angeles, California commencing March 1, 1989.

Phyllis T. Kaylor,

Chief, Documentary Service Division.

[FR Doc. 88-8446 Filed 4-18-88; 8:45 am]

BILLING CODE 4910-62-M

[Order 88-4-41, Docket 45582]

Order Instituting Japan Charter Authorization Proceeding (1988/1989)

AGENCY: Department of Transportation.

ACTION: Institution of the *Japan Charter Authorization Proceeding (1988/1989).*

SUMMARY: U.S. air carriers may operate only 300 one-way charter flights per year between the United States and Japan under the terms of an Interim Aviation Agreement dated September 7, 1982. The aeronautical authorities of each country allocate the charter flights among their carriers. The Department has decided to institute an evidentiary proceeding before an Administrative Law Judge to determine how these flights should be allocated among U.S. carriers for the October 1, 1988-September 30, 1989 period. We used similar procedures last year to award these charter authorizations to 13 U.S. carriers for operation during the current charter year. The Department is inviting interested direct air carriers to file applications to operate the Japan charters at issue.

DATES: Petitions for reconsideration of Order 88-4-41 are due April 25, 1988; answers are due not later than May 2, 1988. Applications containing service proposals and supporting information, and petitions for leave to intervene are due not later than April 29, 1988; answers and requests for an oral evidentiary hearing are due not later than May 13, 1988. Parties interested in participating may obtain a service copy of the order by calling the Documentary Services Division (202) 366-9327 or by writing to the address below.

ADDRESS: Applications, supporting information, petitions for leave to intervene, petitions for reconsideration and requests for an oral evidentiary hearing should be filed in Docket 45582, addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street SW., Room 4107, Washington, DC 20590, and should also be served on the Office of

Hearings, Room 9228, at the same address.

Dated: April 13, 1988.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 88-8445 Filed 4-18-88; 8:45 am]

BILLING CODE 4910-62-M

[Docket No. 45582]

Japan Charter Authorization Proceeding (1988/1989); Assignment of Proceeding

Served: April 14, 1988.

This proceeding has been assigned to Administrative Law Judge Ronnie A.Yoder. All future pleadings and other communications regarding the proceeding shall be served on him at the Office of Hearings, M-50, Room 9228, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-2142.

William A. Kane, Jr.,

Chief Administrative Law Judge.

[FR Doc. 88-8585 Filed 4-18-88; 8:45 am]

BILLING CODE 4910-62-M

Federal Railroad Administration

[BS-Ap-No. 2706]

CSX Transportation Co., City of Jackson, OH; Public Hearing

The CSX Transportation Rail Transport Group and the City of Jackson, Ohio, have petitioned the Federal Railroad Administation (FRA) seeking approval of the proposed discontinuance of the signal systems currently installed on its line between East Norwood, Ohio, and Belpre, Ohio, a distance of approximately 183 miles. This proceeding is identified as FRA Block Signal Application No. 2706.

After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on May 25, 1988, in Room 5515 of the John Weld Peck Federal Office Building at 550 Main Street in Cincinnati, Ohio.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC, on April 11, 1988.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 88-8443 Filed 4-18-88; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: April 13, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0197
Form Number: Forms 5300, 5301 and Schedule T (Form 5300)
Type of Review: Extension
Title: Application for Determination for Defined Benefit Plan for Pension Plans Other Than Money Purchase Plans; Application for Determination for Defined Contribution Plan for Profit-Sharing, Stock Bonus and Money Purchase Plans
Description: IRS needs certain information on the financing and operation of employee benefit plans set up by employers. IRS uses Forms 5300, 5301 and Schedule T (Form 5300) to obtain the information needed to determine whether the plans qualify under Code sections 401(a), and 501(a) for the related trust as tax exempt.
Respondents: Individuals or households, Businesses or other profit, Small businesses or organizations
Estimated Burden: 400,753 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 88-8536 Filed 4-18-88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: April 15, 1988

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: New
Form Number: 5261
Type of Review: New Collection
Title: Notice of Maturing Treasury Note
Description: Form 5261 is used by owner, to have redemption proceeds of a security reinvested at maturity in a new security in the same form of registration.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Burden: 15,000 hours

OMB Number: New
Form Number: 5262
Type of Review: New Collection
Title: Reinvestment Request for Treasury Notes and Bonds
Description: Form 5262 is used to request the reinvestment of a Treasury note or bond at maturity, to cancel a reinvestment request or change a reinvestment that was previously requested.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Burden: 14,000 hours
Clearance Officer: Nancy Veret (202) 376-3902, Bureau of the Public Debt, Room 445, 999 E Street NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf (202) 395-6880 Office of Management and Budget Room 3208, New Executive

Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 88-8537 Filed 4-18-88; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

[Delegation Order No. 228]

Delegation of Authority to Abate Interest Due to IRS Error or Delay

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This Delegation Order delegates the authority to abate assessed and unassessed interest due to IRS error or delay to certain IRS officials. The authority to abate interest, which is discretionary on the part of IRS, is permitted by new Internal Revenue Code section 6404(e)(1) which was enacted as part of the Tax Reform Act of 1986 (Pub. L. 99-514). The text of the Delegation Order is attached.

EFFECTIVE DATE: May 2, 1988.

FOR FURTHER INFORMATION CONTACT: Bob Curran, EX:E:D, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 566-3632.

Vernon R. Engen,

Acting Director, Office of Examination Programs.

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Order No. 150-10, the following officials are authorized to abate assessed and unassessed interest due to IRS error or delay under section 6404(e)(1) of the Internal Revenue Code: Chiefs of Appeals, Division Chiefs for Examination, Collection, Employee Plans and Exempt Organizations, Compliance, and Tax Accounts, and District Directors, Streamlined Districts.

This authority may be redelegated to Associate Chiefs of Appeals, District and Service Center Branch Chiefs in the above Divisions, and Section Chiefs in Streamlined Districts, and may not be further redelegated.

In any instance in which an IRC section 6404(e)(1) claim for interest abatement is immediately disallowable by statute, the assigned interest abatement coordinator is delegated authority to deny the claim. This authority may not be redelegated.

To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified.

Michael J. Murphy,

Senior Deputy Commissioner.

Date: April 11, 1988.

[FR Doc. 88-8557 Filed 4-18-88; 8:45 am]

BILLING CODE 4830-01-M

Performance Review Board Membership

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Members of Senior Executive Service Performance Review Board.

DATE: Performance Review Board effective April 4, 1988.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, 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:

Michael J. Murphy, Senior Deputy Commissioner, Chairperson
Michael P. Dolan, Assistant Commissioner (Human Resources Management and Support)
Robert I. Brauer, Assistant Commissioner (Employee Plans and Exempt Organizations)
Thomas P. Coleman, Regional Commissioner, Western Region
Richard C. Voskuil, Regional Commissioner, Southwest Region
Daniel N. Capozzoli, Assistant Commissioner (Computer Services), Alternate
Cornelius J. Coleman, Regional Commissioner, North 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 (43 FR 52122).

Michael J. Murphy,

Acting Commissioner.

[FR Doc. 88-8558 Filed 4-18-88; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Geriatrics and Gerontology Advisory Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Geriatrics and Gerontology Advisory Committee (GGAC) will be held in the Administrator's Conference Room on the 10th floor of the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC on May 9-10, 1988. The purpose of the Geriatrics and Gerontology Advisory Committee is to advise the Administrator and the Chief Medical Director relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Education and Clinical Centers established by the Department of Medicine and Surgery.

The meeting will convene at 8:30 a.m. on May 9 and adjourn at 4:30 p.m. On May 10, the meeting will convene at 8:30 a.m. and adjourn at noon. The theme will include the future of Geriatrics and Extended Care within the VA system. The Committee will receive short overviews of geriatric initiatives and status in the research, academic and patient care programs followed by an open question and answer session. The GGAC will receive an update on administrative details to include a case mix of programs, GRECC budgets, the Office of Geriatrics and Extended Care and the interaction between the GGAC with other committees such as the Special Medical Advisory Group (SMAG).

Because the capacity is limited, it will be necessary for those wishing to attend to contact Jacqueline Holmes, Program Assistant, Office of Assistant Chief Medical Director for Geriatrics and Extended Care, Veterans Administration Central Office (phone 202/233-3781) prior to May 2, 1988.

Dated: April 12, 1988.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 88-8470 Filed 4-18-88; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 75
Tuesday, April 19, 1988

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 RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, April 25, 1988.

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. Proposals regarding the System's risk exposure on book-entry overdrafts.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: April 15, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-8681 Filed 4-15-88; 4:00 pm]

BILLING CODE 6210-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time) Tuesday, April 26, 1988.

PLACE: Clarence M. Mitchell, Jr., Conference Room, No. 200-C on the Second Floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, DC 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)

Closed Session

Litigation Authorization: General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on the EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Hilda D. Rodriguez, Executive Officer (Acting) on (202) 634-6748.

Date: April 14, 1988.

Hilda D. Rodriguez,

Executive Officer (Acting) Executive Secretariat.

[FR Doc. 88-8637 Filed 4-15-88; 11:06 am]

BILLING CODE 6750-06-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 18, 25, May 2, and 9, 1988.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of April 18

Thursday, April 21

10:00 a.m.
Briefing on Status of Program for Performance Indicators (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) a. Draft Order in the TMI-2 Leak Rate Proceeding

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Week of April 25—Tentative

Thursday, April 28

3:30 p.m.
Affirmative/Discussion and Vote (Public Meeting) (if needed)

Week of May 2—Tentative

Wednesday, May 4

10:00 a.m.
Annual Briefing on the State of the Nuclear Industry (Public Meeting)

2:00 p.m.
Briefing on NRC Point Papers for Consultation Draft of the Site Characterization Plan for Yucca Mountain (Public Meeting)

Thursday, May 5

10:00 a.m.
Briefing on Naturally Occurring and Accelerator-Produced Radioactive Materials (Public Meeting)

2:00 p.m.
Briefing on Status of Operator Requalification Program (Public Meeting)

3:30 p.m.
Affirmative/Discussion and Vote (Public Meeting) (if needed)

Week of May 9—Tentative

Thursday, May 12

10:00 a.m.
Briefing on Status of Unresolved Safety/Generic Issues (Public Meeting)

2:00 p.m.
Briefing on Efforts to License a HLW Repository and Status of Center for Nuclear Waste Repository Analysis (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note. Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

William M. Hill, Jr.,

Office of the Secretary.

April 14, 1988.

[FR Doc. 88-8664 Filed 4-15-88; 3:03 pm]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [53 FR 11589 April 7, 1988].

STATUS: Closed meeting.

PLACE: 450 5th Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, April 4, 1988.

CHANGES IN THE MEETING: Additional item.

The following item was considered at the closed meeting on Tuesday, April 12, 1988, at 2:30 p.m.

Report of Investigation.

Commissioner Peters, as duty officer, determined that Commission business required the above change.

At times in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Alden Adkins at (202) 272–2014.

Shirley E. Hollis,

Assistant Secretary.

April 13, 1988.

[FR Doc. 88–8577 Filed 4–4–88; 4:55 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 53, No. 75
Tuesday, April 19, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. 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.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 377]

Approval for Expansion of Foreign-Trade Zone No. 66, Wilmington, North Carolina, Within the Wilmington Customs Port of Entry

Correction

In notice document 88-8216 appearing on page 12446 in the issue of Thursday, April 14, 1988, the heading was incorrect and should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-940-08-4212-13; A-13138]

Arizona; Conveyance of Public Land; Order Providing for Opening of Land

Correction

In the issue of Wednesday, January 20, 1988, on page 1540 in the second column, a correction to FR Doc. 87-28304 appeared. The first line of the first correction was inaccurate and should have appeared as follows:

"NE¼, NW¼SW¼NE¼NW¼, S½S½".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-940-08-4520-13; ES-038344, Group 10]

North Carolina; Filing of Plat of Dependent Resurvey

Correction

In notice document 88-7228 appearing on page 10952 in the issue of Monday, April 4, 1988, make the following correction:

The docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-08-4220-10; GP-08-100; OR-41565 and OR-41566 (WASH)]

Transfer of Jurisdiction of Lands; Oregon and Washington

Correction

In notice document 88-6992 beginning on page 10443 in the issue of Thursday, March 31, 1988, make the following corrections:

1. On page 10443, in the second column, under T. 1 N., R. 5 E., in Sec. 14, in the second line "SE¼ and NE¼" should read "SE¼NE¼".

2. On the same page, in the same column, under T. 1 N., R. 5 E., the 11th and 12th lines should read "Sec. 22, SW¼SW¼;".

3. On the same page, in the third column, under T. 2 N., R. 14 E., in Sec. 13, in the second line, "SE¼NE¼" should read "SE¼NW¼".

4. On the same page, in the same column, under the heading *Geothermal Oil and Gas Estate only*, under T. 3 N., R. 11 E., remove the first line and insert "Sec. 27, SW¼NW¼.".

5. On the same page, in the same column, the sixth line from the bottom should read "and approximately 2,584.60 acres in Clark, Klickitat, and Skamania Counties, Washington.".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

48 CFR Part 2804

[Justice Acquisition Circular 88-1]

Amendments to the Justice Acquisition Regulation (JAR) Regarding Ratification of Unauthorized Commitments and Prompt Payment

Correction

In rule document 88-8114 beginning on page 12421 in the issue of Thursday, April 14, 1988, make the following correction:

2804.7001 [Corrected]

On page 12421, in the third column, amendatory instuction 2 should read as follows:

"2. Section 2804.7001 is amended by removing paragraphs (a) and (b)."

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-AWA-2]

Proposed Establishment of Airport Radar Service Areas

Correction

In proposed rule document 88-4937 beginning on page 7468 in the issue of Tuesday, March 8, 1988, make the following correction:

On page 7470, in the first column, in the first complete paragraph, in the last line, "§ 91.98" should read "§ 91.88".

BILLING CODE 1505-01-D

Federal Register

Tuesday
April 19, 1988

Part II

Environmental Protection Agency

40 CFR Parts 302 and 355

Reporting Continuous Releases of Hazardous Substances; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 302 and 355

[FRL-3207-4]

Reporting Continuous Releases of Hazardous Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, requires that the person in charge of a vessel or facility from which a hazardous substance has been released in a quantity that is equal to or greater than its reportable quantity (RQ) shall immediately notify the National Response Center of the release. Section 102(b) sets an RQ of one pound for hazardous substances, except those for which RQs have been established pursuant to section 311(b)(4) of the Clean Water Act. Section 102(a) authorizes the U.S. Environmental Protection Agency (EPA) to adjust RQs for hazardous substances and to designate as hazardous substances those substances that, when released into the environment, may present substantial danger to the public health or welfare or the environment.

Section 103(f)(2) of CERCLA provides relief from the reporting requirements of section 103(a) for a release of a hazardous substance that is continuous, stable in quantity and rate, and either is a release from a facility for which notification has been given under section 103(c) or is a release for which notification has been given under section 103(a) for a period sufficient to establish the continuity, quantity, and regularity of such release. Section 103(f)(2) provides further that in such cases, notification shall be given annually or at such time as there is any statistically significant increase in the quantity released of any hazardous substance. This rule presents the Agency's proposed interpretation of the section 103(f)(2) reduced reporting requirements.

DATES: Comments must be submitted on or before June 20, 1988.

ADDRESSES: The toll-free telephone number of the National Response Center is 1-800/424-8802; in the Washington, DC metropolitan area, the number is 1-202/426-2675.

Comments: Comments should be submitted in triplicate to: Emergency Response Division, Superfund Docket Clerk, Attention: Docket Number 103(f) CR, Room LG-100, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Docket: Copies of materials relevant to this rulemaking are kept in Room LG-100, at the above address. The docket is available for inspection between 9:00 a.m. and 4:00 p.m. Monday through Friday, excluding Federal holidays. Appointments to review the docket can be made by calling 202/382-3046. As provided in 40 CFR Part 2, a reasonable fee (the first 50 pages are free and each additional page costs $.20) may be charged for copying services.

FOR FURTHER INFORMATION CONTACT:

Mr. Hubert Watters, Project Officer, Response Standards and Criteria Branch, Emergency Response Division (WH-548B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460;
or the
RCRA/Superfund Hotline, 1-800/424-9346; in Washington, DC, 1-202/382-3000.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction

A. Background

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Pub. L. 96-510), 42 U.S.C. 9601 *et seq.* (CERCLA or the Act), enacted on December 11, 1980, and amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99-499), establishes broad Federal authority to respond to releases or threats of releases of hazardous substances from vessels and facilities. Section 101(14) of the Act defines the term "hazardous substances" by reference to other environmental statutes with authority further granted to the U.S. Environmental Protection Agency (EPA) to designate additional hazardous substances under CERCLA section 102(a). The CERCLA list currently contains 721 hazardous substances.

Section 103(a) of the Act requires that, as soon as the person in charge of a vessel or facility has knowledge of a release of a hazardous substance from such vessel or facility in a quantity equal to or greater than the reportable quantity (RQ) for that substance, that person shall notify the National Response Center immediately. Section 102(b) of CERCLA establishes RQs for releases of hazardous substances at one pound, except for those substances for which RQs were established pursuant to section 311(b)(4) of the Clean Water Act (CWA). Section 102(a) of CERCLA authorizes EPA to adjust all of these RQs. (See 40 CFR 302.4).

Section 103(b) authorizes penalties, including criminal sanctions, for persons in charge of vessels or facilities who fail to report releases of hazardous substances that equal or exceed RQs. Section 109 of SARA amends section 103(b) of CERCLA, increasing the maximum penalties and years of imprisonment. Any person who, as soon as that person has knowledge of a reportable release, fails to report the release immediately pursuant to section 103(a) or who submits any information that he or she knows to be false or misleading, shall, upon conviction, be fined in accordance with the applicable provisions of Title 18, United States Code (not more than $250,000 or $500,000, depending upon whether the violator is an individual or an organization), or imprisoned for not more than three years (or not more than five years for second and subsequent convictions), or both. Notifications received under section 103(a) or information obtained by exploitation of such notifications cannot be used against any reporting person in any criminal case, except a prosecution for perjury or for giving a false statement. Section 109 of SARA also provides for a system of administrative penalties for violations of CERCLA section 103(a), enforceable through civil proceedings.

Section 103(f)(2) of CERCLA modifies the general notification requirements of section 103 for certain releases. Releases may be reported less frequently than otherwise would be required, if they are "continuous" and "stable in quantity and rate," and notification has been given: (1) Under section 103(a) "for a period sufficient to establish the continuity, quantity, and regularity" of

the release or (2) under section 103(c), which requires notification to the Federal government of the existence of certain facilities that are or have been used for storage, treatment, or disposal of hazardous wastes but do not have Resource Conservation and Recovery Act (RCRA) interim status or a permit. Section 103(f)(2) pertains only to releases that are continuous and stable in quantity and rate, and requires that notification be given "annually, or at such a time as there is any statistically significant increase" in the quantity of the hazardous substance released.

The primary function of CERCLA's notification requirements is to alert government officials to the existence of a situation that may require a government response to protect public health or welfare or the environment. The National Response Center, upon receiving notification of a release, immediately alerts the appropriate on-scene coordinator (OSC) who then evaluates the need for a Federal response. Because episodic releases are almost always unanticipated from a response perspective, they must be reported as they occur. Continuous releases, on the other hand, are predictable.

Thus, instead of reporting every release as it occurs, the person in charge of a vessel or facility is allowed to report certain continuous releases less often under section 103(f)(2). The purpose of this section is to reduce unnecessary release reporting. When a release occurs regularly and in relatively stable amounts, Federal response officials do not have to be notified each time such a release occurs to have the information needed to decide whether a response to the release is necessary. However, Federal response authorities will continue to need some notification of these releases. Section 103(f)(2) provides that notification of continuous releases shall be given: (1) In an annual report, and (2) at such times as there is a statistically significant increase in the quantity released. Such notification must be given by: (1) The owner or operator of a facility for which initial notification of the release was provided under section 103(c), or (2) the person in charge of a vessel or facility who has provided notification of the release under section 103(a) for a period sufficient to establish the continuity and quantity and regularity of the release. The person in charge of a vessel or facility, of course, always retains the option of continuing to report these releases as they occur under section 103(a).

On May 25, 1983, EPA published a Notice of Proposed Rulemaking (NPRM) (48 FR 23552) to clarify procedures for reporting releases and to adjust RQs for some CERCLA hazardous substances. In the preamble to the May 25, 1983 proposed rule, the Agency discussed the reduced reporting requirements for continuous releases and set forth a number of ideas that were under consideration. EPA specifically requested comments on the most feasible approach for continuous release notification, the information to be required, the criteria for identifying a statistically significant increase in the release, and any other relevant issues. The Agency stated at that time that such information would enable it to develop a system that imposed a minimal burden on both the regulated community and the government, while achieving the underlying statutory objectives. EPA received 45 letters with comments on the reduced reporting requirement for continuous releases. Those comments are addressed in Section II of this preamble. The reduced reporting requirement for continuous releases was discussed again in the preamble to a final rule adjusting RQs, published on April 4, 1985 (50 FR 13456). EPA noted that due to the complexity of the issues involved, the Agency would study the continuous release reduced reporting requirement further and would not promulgate, at that time, a regulation related to continuous releases.

It should be noted that other provisions of the Act may apply even where CERCLA does not require notification or provide for reduced notification requirements. For example, a party responsible for a release of a CERCLA hazardous substance that is not a federally permitted release is liable for the costs of cleaning up that release and for any natural resource damages, even if the release is not subject to the notification requirements of CERCLA. Similarly, proper reporting of a release in accordance with section 103(a) or section 103(f)(2) does not preclude liability for cleanup costs. The fact that a release of a hazardous substance is reported properly or that it is not subject to the notification requirements of CERCLA will not prevent EPA or other government agencies from seeking reimbursement for cleanup from responsible parties under section 107, or pursuing an enforcement action against responsible parties pursuant to section 106. Therefore, this rulemaking should not be interpreted as reflecting Agency policy or the applicable law with respect to other provisions of the Act.[1]

B. Relationship to Reporting Under Title III

Title III of SARA (sections 301–329) addresses emergency planning and community right-to-know and provides, among other things, emergency and annual notification requirements in addition to those included in section 103 of CERCLA. EPA has provided (52 FR 13377, April 22, 1987; 52 FR 38345, October 15, 1987; and 53 FR 4503, February 15, 1988) and will continue to provide regulations and guidance on the Title III requirements as necessary and appropriate.

With respect to emergency notification requirements, section 304 of SARA provides release reporting requirements that parallel the requirements of section 103(a) but are intended to make release information immediately available to State and local emergency officials as well as Federal response officials notified under CERCLA section 103. In addition, section 304(a) requires reporting of: (1) Releases for which notification is required under section 103(a) of CERCLA, and (2) releases of "extremely hazardous substances" that are not hazardous substances under CERCLA but that "occur in a manner which would require notification under section 103(a)" of CERCLA. Thus, continuous releases that require annual reporting under CERCLA section 103(f)(2) rather than immediate reporting under CERCLA section 103(a), are not reportable under section 304 of SARA (see 52 FR 13384). "Statistically significant increases" must, however, be reported under SARA Section 304. To clarify the type of releases that are defined as continuous releases, and thereby exempt from SARA section 304 reporting, today's rule proposes to revise the applicability section of the regulations implementing section 304 (40 CFR 355.40(a)) to: (1) Add the definitions of "continuous" and "statistically significant increase" provided in this rule, and (2) provide references to today's proposed changes to 40 CFR Part 302.[2] Thus, the interpretation of

[1] Moreover, all releases of CERCLA hazardous substances, including federally permitted releases, are subject to liability provisions of Federal statutes other than CERCLA, State statutes, and common law (see Senate Report No. 96-848 (1980), p. 46).

[2] Today's rule also proposes to add language to 40 CFR 355.40(a)(2) that was deleted inadvertently in publishing the final rule (52 FR 13396, April 22, 1987). The proposal adds paragraph (a)(2)(iv) and provides that releases exempt from CERCLA section 103(a) reporting under section 103(e) (which

Continued

continuous release proposed in today's rule will define clearly the scope of the releases reportable under SARA section 304.

Section 313 of SARA also requires annual release reporting similar to annual continuous release reporting under CERCLA section 103(f)(2). Under SARA section 313, covered facilities must submit, on July 1, each year, a Toxic Release Inventory form to the EPA Administrator and to the State official or officials designated by the Governor. Annual notification requirements under section 313, however, are different in scope and purpose from CERCLA section 103 reporting requirements. Section 313 requirements apply only to facilities in the Standard Industrial Classification (SIC) Major Groups 20 through 39 (unless the Administrator exercises his discretion granted in sections 313(b)(1)(B) or 313(b)(2) to add or delete SIC groups or individual facilities); CERCLA places no such restrictions on its applicability. Also, the universe of substances covered by CERCLA and section 313 notification is not the same, that is, some substances subject to CERCLA notification requirements are not subject to section 313 requirements, and certain additional substances not subject to the CERCLA notification requirements are subject to the section 313 notification requirements. The purpose of the reporting requirements differ as well; the purpose of the SARA section 313 reporting requirement is to create a Federal inventory, while the purpose of the CERCLA section 103 reporting requirements is to alert Federal response officials of episodic releases that may require emergency response. Therefore, because of these differences between the section 313 requirements and section 103 reporting, the Agency believes it is appropriate to proceed with this proposed rule regarding section 103 notification requirements.

The Agency recognizes, however, that the application of the annual report provision of the continuous release reduced reporting requirement and the reporting requirement for the Toxic Release Inventory under SARA section 313 may result in duplicative reporting. Some facilities will be subject to the reporting requirements of both CERCLA section 103(f)(2) and SARA section 313, and some of the data and information required under both reporting requirements are the same. Some of the information required to be submitted by section 103(f)(2), however, is not required to be submitted under section 313. The Agency will attempt to deal with this potential for overlap of reporting in two ways. The Agency will, to the extent feasible, indicate in the section 103(f)(2) guidance and in the section 313 instruction documents where answers to certain questions will be useful in answering questions for the other reporting requirement. In addition, the Agency will initiate discussions with users of the section 103(f)(2) data to determine if the data to be submitted under section 313 would be sufficient for their needs. If the data would be sufficient, the Agency will consider allowing persons in charge of facilities subject to both section 103(f)(2) and section 313 to submit only the section 313 form for those chemicals appearing on both lists. The Agency requests comments on these approaches to minimize the duplicative reporting requirements.

C. Current Requirements

Until this rule is published in final form and has become effective, the person in charge of a vessel or facility must comply with the requirements for reporting continuous releases as set forth in the statute. The person in charge of a facility or vessel from which there is a release of a hazardous substance that is continuous and stable in quantity and rate, who reports in compliance with section 103(f)(2)(A) for releases from facilities, or section 103(f)(2)(B) for releases from vessels or facilities, may provide notification under section 103(f)(2) (i.e., annually and in the event of a statistically significant increase), instead of under section 103(a). Parties subject to the notification provisions of section 103 may use this proposed rulemaking as guidance for interpretation of the statutory requirements. All other releases of CERCLA hazardous substances must be reported in accordance with section 103(a) whenever such releases equal or exceed the RQ.

II. The Continuous Release Reduced Reporting Requirement

A. EPA's General Approach

In developing this proposed rule, EPA has been guided by several goals—to develop a regulation that is flexible enough to cover the variety of possible continuous release scenarios that might arise, to make the proposal as self-implementing as possbile, to ensure continued notification of releases for which a Federal response may be necessary, and to minimize the burden on both the regulated community and the government to the extent possible without compromising public health and the environment. Specific efforts to address these goals will be described in Section II.B. of this preamble where EPA's approach on the key concepts of the proposed regulation is discussed.

Comments frequently made in response to the Agency's May 25, 1983 NPRM, mentioned above, seem to confuse the continuous release reduced reporting requirement with the federally permitted release reporting exemption. A number of commenters on the May 25, 1983 NPRM have urged EPA to rely primarily on reporting under existing permitting programs and not to impose additional reporting requirements for continuous releases. Today's proposed rule does not impose any additional reporting requirements. Further, if a release meets the requirements necessary to be classified as a federally permitted release, the release is exempt entirely from reporting under CERCLA section 103. Thus, the reduced reporting procedure of section 103(f) is not applicable to federally permitted releases because it only applies to releases that must be otherwise reported under section 103.

B. Key Concepts Included in the Proposed Rule

1. "Continuous"

EPA proposes to define "continuous" as a release that is: (1) Continuous without interruption or abatement; (2) continuous during operating hours; or (3) continuous during regularly-occurring batch processes. The period over which such releases are evaluated is 24 hours.

One type of release that EPA had considered in its May 25, 1983 NPRM (48 FR 23559), which several commenters suggested should qualify as continuous, is a routine, anticipated, intermittent release that is incidental to normal manufacturing or treatment processes or operations. EPA has chosen not to include such releases within the definition of continuous releases in this proposed rule because the Agency believes that such a broad definition may not be adequately protective of human health and the environment and because such releases may be impossible to define in a meaningful way.

Continuous releases under the standard dictionary definition of the term "continuous" are releases that occur without interruption. Intermittent releases are releases that cease and recommence in a variable manner and thus do not fall clearly within the

applies to the application, handling, or storage of a pesticide registered under the Federal Insecticide, Fungicide, and Rodenticide Act) also are exempt from reporting under SARA section 304.

meaning of the term "continuous." In addition, because of the variable nature of intermittent releases, the degree of certainty and predictability associated with them (in terms of commencement, cessation, and amount released) may be considerably lower than it is for truly continuous releases. Further, many if not most continuous releases are controlled by a plant process or operation. A substantial number of intermittent releases may not be subject to such controls. Finally, the phrase "routine, anticipated, intermittent release" appears to be extremely vague and thus many episodic releases that may need Federal response would not be reported under section 103(a) if the definition of "continuous release" included such intermittent releases.

The Agency has become aware, however, of situations in which certain intermittent releases may have a high degree of certainty and predictability associated with them. Examples of such releases include releases that are stable in quantity and rate and result from (1) production of a batch of a substance at the same time every week that, for example, is used in the plant production process throughout the week; (2) the start-up of a machine every workday morning and its shutdown every workday evening; and (3) the use of a hazardous substance at a facility every day or at the same time every week. The Agency is considering allowing these routine, anticipated, intermittent releases that are predictable and stable with respect to quantity, rate, and time of occurrence to be considered "continuous" releases and subject to the reduced reporting requirements of section 103(f)(2). The immediate reporting of such releases would not enhance the OSC's ability to determine if a Federal field response is necessary.

The Agency has identified two options under which predictable, routine, anticipated, intermittent releases would be exempted from episodic release reporting requirements. Under the first option, routine, anticipated, intermittent releases that are predictable and stable in quantity, rate, and time of occurrence would be a category of releases for which the Agency would grant an administrative exemption from section 103(a) reporting on the basis that response officials would not need such information on a per-occurrence basis. Thus, such releases would not be defined as "continuous" releases but would be subjected to analogous requirements pursuant to EPA's general rulemaking authority under CERCLA. Under the second option, EPA would redefine "continuous" to include these routine releases as continuous releases, subject to the reduced reporting requirements under section 103(f). The effect of both options is the same; routine, anticipated, intermittent releases that are predictable and stable in quantity, rate, and time of occurrence would be subject to reduced reporting requirements. The Agency solicits comments on the concept of treating these routine releases as "continuous" releases, on how "intermittent, routine, anticipated releases" could be defined meaningfully, and on the options discussed above.

2. "Stable in Quantity and Rate"

EPA considered both quantitative and qualitative indicators as possible standards by which to judge compliance with this statutory requirement. Quantitative measures, such as a predetermined percentage variation from the mean, are more difficult for EPA to establish because of the large number of different types of industries that may be releasing hazardous substances on a continuous basis and because of the different types of releases (i.e, amounts, frequency, location in the process, etc.). A qualitative measure, on the other hand, seems to be more appropriate because it provides greater flexibility to the regulated community without reducing the protection of human health and the environment.

EPA has selected a qualitative measure that describes a release that is stable in quantity and rate as one that has a predictable quantity and rate during normal operations and is not the result of malfunction or upset conditions. The Agency solicits comments and supporting data on this approach to "stable in quantity and rate" and on whether there are other qualitative and quantitative measures that might be appropriate.

3. "For a Period Sufficient To Establish the Continuity, Quantity, and Regularity of the Release"

A number of commenters on the May 25, 1983 NPRM were in favor of letting the releaser determine this element of the continuous release provision. One argument offered was that the statistically significant increase provision would serve as an incentive to quantify releases accurately. Other commenters supported the establishment of a single time period for release reporting that would be the "period sufficient," while still others preferred a specified number of release reports to establish the period sufficient for determining whether a release was continuous and stable in quantity and rate.

The Agency has attempted to be flexible on this point. Because the definition of "continuous" encompasses different types of releases, the time frame and nature of the documentation necessary to show continuity, quantity, and regularity may differ as well.

EPA proposes to allow the person in charge to make the determination of the period appropriate to the particular release at issue. The Agency has not defined an acceptable time frame for the appropriate period because the quantity of data will vary greatly; for example, a frequent release will result in the generation of enough data to establish the predictability of the release in a short time while an infrequent release will slowly produce enough data to establish predictability. Both examples, however, may be continuous releases subject to the section 103(f)(2) reduced reporting requirement. Because notifications under section 103(a) (codified at 40 CFR 302.6) may not provide sufficient information to establish the continuity and predictability of a release, the person in charge may supplement the notifications made under 40 CFR 302.6 with recent release data, and any other relevant information. However this determination is made, it must include, at a minimum, the basis for continuity and the basis for asserting stability of quantity and rate. The Agency has further decided that the information forming the basis of the determination should not be sent to EPA at the time this determination is made, although the basis for asserting continuity and stability of quantity and rate is to be included as part of the annual report. This information must be kept on file at the facility or, in the case of a vessel, at an office within the United States in either a port of call or place of regular berthing. EPA will request or inspect this information as necessary to enforce the requirements of this section.

If a release is continuous and stable in quantity and rate within the meaning of this regulation, but there is a substantial change in the composition or character of the release (other than in the amount) due to some process change or other factors, the changed release is considered a different release, and qualification for the continuous release reduced reporting requirement must be reestablished.

4. "Statistically Significant Increase"

In the preamble to the May 25, 1983 proposed rule, EPA indicated that three alternatives were under consideration

for defining statistically significant increase:

- Requiring reporting whenever a release falls outside some expected range based on statistical tests, such as the "Student t" test;
- Requiring reporting whenever the amount released exceeds the amount ordinarily released by some pre-established factor, such as 2, 5, or 10 times the daily average; or
- Letting the releaser determine what is a statistically significant increase.

Commenters on these options expressed varying opinions as to which was the most appropriate approach.

EPA has evaluated a number of approaches and has decided to remain flexible. The Agency proposes to allow the person in charge of the vessel or facility to select the appropriate statistical test for identifying statistically significant increases in releases. For purposes of comparison in the statistical tests, releases refer to the total amount released (at or above the RQ) over a 24 hour period. The Agency is defining statistically significant increases as increases that would occur less than five percent of the time under normal conditions (i.e., conditions that prevail during the period establishing the continuity, quantity, and regularity of the release). EPA has selected the five percent significance level for the Type I error rate; [3] this level allows EPA to fulfill its mandate to protect the public health and the environment. The Agency believes that requiring reporting under section 103(f)(2) for only those releases falling at or above the five percent significance level strikes an appropriate balance between reducing reporting requirements and its responsibility to protect the public health and the environment. EPA is interested in obtaining comments on this approach and solicits suggestions from interested parties with data supporting a Type I error rate other than that employed in this proposal.

The Agency believes that the nonparametric statistical test using an estimate of the 95th percentile (as described below and in Appendix C to § 302.8 of the proposed regulation) should be applicable to all release situations. Statistically significant increases would be defined as those increases that fall at or above the estimate of the 95th percentile. This concept of a statistically significant increase in a release is consistent with CERCLA section 103(f)(2) that requires reporting of an "increase in the quantity * * * above that previously reported or occurring." Under certain circumstances where the underlying distribution is known (e.g., if there is a normal distribution and extensive existing release data), the control chart test, Student t test, or some other method may be more appropriate. The control chart test and Student t test are used commonly by industry where sufficient data exist to justify the underlying parametric assumptions. See Appendix C and the Background Document in Support of the Proposed Continuous Release Reporting Requirements under section 103(f)(2) of CERCLA (Background Document) for further information on the nonparametric, control chart, and Student t tests.

Under today's proposal, use of a test other than the described nonparametric test requires a demonstration of the test's appropriateness with respect to the particular release. A parametric test may be preferred by a facility or vessel because the test may be used commonly for some other purpose or because a parametric test designed for a specific distribution may be more sensitive than the described nonparametric test applied to the same distribution. For the control chart or Student t test, the person in charge must demonstrate that the test is appropriate for the facility's or vessel's underlying release distribution. For any other alternative statistical methodology (including any alternative parametric or nonparametric test), the person in charge must demonstrate that the test is: (1) Sensitive enough to identify accurately at lease 60 percent of the releases in the top five percent of all releases,[4] or (2) at least equivalent in sensitivity to the most sensitive test among the nonparametric test, the control chart test, or the Student t test described in Appendix C. Sensitivity is defined to be the number of releases identified by the test that are actually in the top five percent divided by the total number of releases in the top five percent (see Appendix C). Requiring an alternative test to be at least as sensitive as the most sensitive test evaluated by the Agency is expected to result in releasers using the most sensitive statistical test available.

The Agency expects all demonstrations to be updated annually to verify the appropriateness of the test for the particular release. The demonstration should not be submitted to EPA when performed, although the results of the latest demonstration are to be included in the annual report required by the statute. The demonstration must be kept on file by the person in charge and made available for review by EPA as necessary.

Use of the three statistical tests specifically mentioned above is discussed in detail in Appendix C to this proposed rule. Only a brief description of each is included here. The Background Document in support of this rulemaking discusses other statistical options evaluated by EPA.

The Agency is interested in receiving comments on the specific statistical tests described herein, as well as other tests that might be appropriate to identify statistically significant increases.

Briefly, the nonparametric test evaluated by EPA and included in this rule requires all releases to be recorded by the person in charge. A release at or above the RQ will be a statistically significant increase (and therefore must be reported to the National Response Center) if it is greater than the largest of the nineteen most recent releases. If fewer than nineteen releases have occurred, then the release would need to be reported to the National Response Center if it exceeds the largest release to date. Because the person in charge always is comparing the latest release to the last nineteen, the largest five percent of the releases generally will be reported, regardless of the underlying distribution.

The Agency is aware that if two large releases occur within a short period of time, with the first release being larger than the second release, the nonparametric test will identify only the first release as a statistically significant increase. The Agency acknowledges that the nonparametric test would not identify as a statistically significant increase large releases in circumstances such as these, and the National Response Center will not be notified immediately of the second large release. However, the OSC would have been notified immediately of the first large release, would have received, at least, the initial annual report from the facility, and will receive an annual report reflecting the second large release; thus the OSC would be able generally to evaluate the need for a Federal response. In addition, the nonparametric test has the advantage of being simple and straightforward, not requiring expensive and sophisticated

[3] Type I error is the probability of falsely assuming a difference. In this instance, the Agency has set that probability at five percent.

[4] EPA selected 60 percent as the appropriate sensitivity level based upon a simulation involving 1,000 different sets of 30 data points applied to the Student t and nonparametric statistical tests. Each observation was simulated for normal, log-normal, uniform, and randomly generated distribution. The results showed the tests were capable of identifying releases (in the top five percent) at least 60 percent of the time. EPA believes, therefore, that any alternative statistical methodology should demonstrate at least equivalent sensitivity

statistical analysis. It will identify successfully situations where conditions at a facility are deteriorating; other tests might not identify as statistically significant increases releases that are gradually getting larger over time. The Agency requests comments regarding the inability of the proposed test to identify the second of two large releases and seeks suggestions for refining the test to account for this gap.

The control chart test is generally very effective in cases of 30 or more release data points. For a normal distribution, it triggers a report when an observation exceeds a certain number of standard deviations above the mean.[5] If the new recorded release is less than this number of standard deviations above the mean, the release is not considered a statistically significant increase, and the release data point is added to the release history and a new mean and standard deviation are calculated. This control chart test will identify dependably releases in the top five percent only when the underlying distribution is normal. Control chart tests for different known distributions also can be developed and would be accepted provided they meet the criteria specified in § 302.8(d)(3) of the proposed rule.

The Student t test involves the calculation of a test statistic and a comparison of this test statistic with the t statistic for the upper five percent significance level. The test statistic is calculated by subtracting the mean of all releases (excluding the newest release) from the newest release, and dividing this difference by the standard deviation. The test statistic obtained is then compared to a table of reporting triggers, and if it equals or exceeds the relevant reporting trigger, the release is a statistically significant increase.

EPA realizes that by using the tests described above for releases that are declining consistently over time, no statistically significant increase would be reported. In such situations, however, the Federal OSC will have information concerning previous reports received by the National Response Center. In addition, the OSC will receive the annual report from the facility or vessel (as described below), and will be able to evaluate the need for any Federal response based on the information contained in the annual report. In the situation described above, because releases of hazardous substances are declining steadily, it is anticipated that relatively few Federal responses would be necessary. The Agency solicits comments on this proposed approach that may result in delayed responses.

5. Annual and Statistically Significant Increase Reporting

While Congress intended to reduce the otherwise applicable reporting requirements for continuous releases (as compared to episodic releases), it did not intend to eliminate them entirely. Annual and statistically significant increase reporting are required by section 103(f)(2) and are necessary to meet the underlying objective of this provision. Annual reports are necessary to keep Federal response officials alerted to frequent, anticipated but potentially worrisome releases. Statistically significant increases must be reported immediately to the National Response Center because such releases are not distinguishable from other episodic releases. Thus, the Agency cannot agree with the several commenters who found the concept of annual reporting to be "unnecessary" and "burdensome" and requested its elimination. EPA has attempted to interpret this statutory requirement with the same flexibility as other requirements of section 103(f)(2) so as to minimize the burden associated with recording or calculating any unnecessary or marginally useful information and data, and still remain consistent with statutory objectives.

The proposed rule requires that annual notification be made in writing to the OSC predesignated under the National Contingency Plan for the geographical area where the releasing facility or vessel is located. EPA believes it more appropriate that these reports be provided directly to the OSCs, rather than to the National Response Center, because this is not an immediate release notification and no emergency response generally will be required with respect to continuous releases (except statistically significant increases as discussed below). Rather, the OSCs in the Regions should be kept aware of releasers who are exceeding RQs on a continuous basis. Additionally, the annual report will enhance the OSC's ability to evaluate whether a response action is necessary to address a statistically significant increase.

Submission of the annual report does not require or imply any EPA approval of the report or the information contained therein. Materials used to support the information contained in the annual report, as well as other materials relevant to statistically significant increases, alternative statistical methodologies, and the continuity and stability of the release, need not be sent to EPA but instead should be kept on file at the facility, or in the case of a vessel, at an office within the United States, in either a port of call or a place of regular berthing. EPA may request such information as necessary to enforce the reporting requirements for continuous releases.

The proposed regulation lists the following items for inclusion in the annual report for each substance:

- The name/identity of the hazardous substance, the Chemical Abstract Service Registry Number (CASRN) for the substance (if available), the media affected, and the annual total pounds or kilograms released;
- A short statement of the basis for asserting continuity and stability of quantity and rate;
- The inclusive dates and the number of times the amount of the release during any 24-hour period exceeded the reportable quantity;
- The number of times statistically significant increases occurred and were reported to the National Response Center;
- The amount in pounds or kilograms of the mean release and the single largest release; and
- The type of statistical test used to determine statistically significant increases and the results of the sensitivity analysis (if required) as set forth in Appendix C.

Reporting of statistically significant increases should be made to the National Response Center in the manner set forth in 40 CFR 302.6 for all other notifications of hazardous substance releases that equal or exceed an RQ (50 FR 13456, April 4, 1985). Such releases represent situations that will need to be evaluated immediately to determine the necessity for a response action. In determining whether a statistically significant increase has occurred and needs to be reported, the person in charge should use a 24-hour period for measuring the quantity released.

III. Regulatory Analyses

A. Executive Order No. 12291

Rulemaking protocol under Executive Order (E.O.) 12291 requires that proposed regulations be classified as major or nonmajor for purposes of review by the Office of Management and Budget (OMB). According to E.O. 12291, major rules are regulations that are likely to result in:

(1) An annual effect on the economy of $100 million or more; or

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

[5] EPA has defined this "certain number" to be 1.8485, which takes into account the asymptotic reduction in estimated mean and variance caused by excluding all values deemed reportable when in reality only five percent should be correctly regarded as reportable.

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Background Document shows that today's proposed regulation is nonmajor, because adoption of the proposed rule will result in a cost to government and the regulated community of approximately $36 million ($35.7 million to the regulated community). At the same time, this proposal is expected to generate cost savings to the government and the regulated community of approximately $406 million ($328 million to the regulated community), yielding a net benefit of about $370 million ($292 million to the regulated community). Moreover, the proposed rule will not cause a major increase in costs or prices mentioned in (2) above or cause any of the significant adverse affects mentioned in (3) above.

This document has been submitted to OMB for review as required by E.O. 12291.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have a "significant impact on a substantial number of small entities." EPA certifies that this proposed regulation will not have a significant impact on a substantial number of small entities and that a Regulatory Flexibility Analysis is not required. See Chapter Six of the Background Document referenced above.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.* Submit comments on these requirements to the Office of Information and Regulatory Affairs; OMB; 726 Jackson Place NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects

40 CFR Part 302

Air pollution control, Chemicals, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Nuclear materials, Pesticides and pests, Radioactive materials, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control.

40 CFR Part 355

Chemical accident prevention, Chemical emergency preparedness, Chemicals, Community emergency response plan, Community right-to-know, Contingency planning, Extremely hazardous substances, Hazardous substances, Reportable quantity, Reporting and recordkeeping requirements, Threshold planning quantity.

Dated: April 10, 1988.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 302—DESIGNATION, REPORTABLE QUANTITIES AND NOTIFICATION

1. The authority citation for Part 302 continues to read as follows:

Authority: 42 U.S.C. 9602; 33 U.S.C. 1321 and 1361.

2. Part 302 is amended by adding § 302.8 to read as follows:

§ 302.8 Continuous releases.

(a) Except as provided in paragraph (c) of this section, no notification shall be required under § 302.6 of this part for any release of a hazardous substance that has been determined pursuant to paragraph (b) of this section to be: continuous without interruption or abatement, continuous during operating hours, or continuous during regularly-occurring batch processes, and also a release that is stable in quantity and rate. A release that is stable in quantity and rate means a release that is predictable in amount and rate of emission during normal operations and does not result from malfunction or upset conditions.

(b)(1) Except as provided in section 103(f)(2)(A) of CERCLA, the person in charge of the facility or vessel must provide notification under § 302.6 for a period sufficient to establish the requirements of paragraph (a) of this section. The period sufficient for a particular release shall be determined by the person in charge. Where necessary to establish the conditions set out in paragraph (a) of this section, the person in charge may rely on recent release data or other relevant information to supplement notification under § 302.6.

(2) All documents, materials, and other information used to support: the determination that the release meets the conditions of paragraph (a) of this section, the notifications made under paragraph (c) of this section, and the demonstration under paragraphs (d)(2) and (d)(3) of this section, shall be kept on file at the facility or, in the case of a vessel, at an office within the United States in either a port of call or a place of regular berthing. Such information shall be made available to EPA upon request as necessary to enforce the requirements of this section.

(c)(1) Notification shall be given for any release qualifying for reduced reporting under this section:

(i) Annually; and

(ii) At such times as an increase in the quantity of the hazardous substance being released during any 24-hour period represents a statistically significant increase as described in paragraph (d) of this section.

(2) Initial notification of a continuous release and subsequent annual notification in accordance with paragraph (c)(1)(i) of this section shall be made in writing to the Federal On-Scene Coordinator designated, pursuant to 40 CFR Part 300, for the geographical area where the releasing facility or vessel is located. Initial notification shall occur at the time the person in charge of the facility or vessel claims that its releases qualify for reduced reporting under this section. Annual notification shall occur on a date to be elected by the reporting entity in the initial notification. The date elected in the initial notification for submittal of subsequent annual notifications shall be no later than one year from the day of filing of the initial notification. The annual notification shall include for each substance for which the continuous release reduced reporting requirement is claimed the following information concerning the release during the applicable reporting period:

(i) The name/identity of the hazardous substance, the Chemical Abstracts Service Registry Number (CASRN) for the substance (if available), the media affected, and the annual total pounds or kilograms released;

(ii) The basis for asserting continuity and stability of quantity and rate;

(iii) The inclusive dates and the number of times the amount of the release during any 24-hour period exceeded the reportable quantity;

(iv) The number of times statistically significant increases occurred and were

reported to the National Response Center;

(v) The amount in pounds or kilograms of the mean release and the single largest release; and

(vi) Pursuant to paragraph (d) of this section, the type of statistical test used to determine statistically significant increases and the results of the sensitivity analysis (if required) as set forth in Appendix C.

(3) Notification of a statistically significant increase shall be made to the National Response Center in the manner set forth in § 302.6.

(d) For the purposes of this section, statistically significant increases are the largest five percent of all continuous releases. A determination of whether an increase is a "statistically significant increase" shall be made based upon:

(1) The nonparametric statistical test using a distribution-free estimate of the 95th percentile as described in Appendix C of this section;

(2) The control chart test or Student t test, in accordance with the procedures set forth in Appendix C of this section, if it can be demonstrated that the underlying release distribution is normal; or

(3) Any other alternative statistical methodology that can be demonstrated to be:

(i) Sufficiently sensitive to identify accurately the releases in the top five percent at least 60 percent of the time; or

(ii) At least equivalent in sensitivity to the most sensitive test among the nonparametric test, the control chart test, or the Student t test described in Appendix C of this section.

(e) Multiple concurrent releases of the same substance occurring at various locations with respect to contiguous plants or installations upon contiguous grounds that are under common ownership or control shall be added together in determining whether such releases constitute a continuous release under paragraph (a) of this section or a statistically significant increase under paragraph (d) of this section.

(f) The reduced reporting requirements provided for under this section shall apply only so long as the person in charge complies fully with all requirements of paragraphs (b) and (c) of this section. Failure of such compliance with respect to any release from the facility or vessel shall subject the person in charge to all of the reporting requirements of § 302.6 for each such release and to the penalties under § 302.7 for failure to notify, and to any other applicable penalties provided for by law.

Appendix C to § 302.8—Procedure for Determining Statistically Significant Increases

The purpose of this appendix is to describe procedures for determining statistically significant increases under 40 CFR 302.8(d). Statistical tests are to be used to determine whether a specific release represents a statistically significant increase. EPA has defined a statistically significant increase as an increase that would occur only less than five percent of the time under normal conditions. The choice of the appropriate statistical test to use depends upon the number of data points available to the person in charge of the vessel or facility from which a release occurs and the underlying release distribution. If a parametric test specified in the rule is employed, the person in charge must maintain on file at the facility a demonstration that the particular test used to identify statistically significant increases is appropriate for the release distribution being tested. Use of a statistical methodology not specified in the rule requires a demonstration that the methodology chosen is at least 60 percent accurate in identifying statistically significant increases or, if not, is at least equivalent insensitivity to the most sensitive test among the nonparametric test, the control chart test, or the Student t test described in the rule.

Section 1 of this appendix describes the nonparametric test identified by the Agency; Section 2 of this appendix describes the parametric tests evaluated by the Agency and considered generally acceptable; and Section 3 of this appendix discusses the demonstration required to show the appropriateness of a particular statistical methodology.

The statistical procedures descibed in this appendix assume that data used in the various tests are collected under the same circumstances and in the same manner. That is, the data set must be homogeneous. If the production process is altered, or if there are substantial increases or decreases in production levels, the data collection and analytical process must begin again.

1. Nonparametric Statistical Tests

The Agency evaluated a nonparametric test for situations where the person in charge of a vessel or facility may not know the underlying distribution of the releases. The nonparametric test evaluated by EPA is appropriate for situations where any number of data points are available. The test evaluated is a distribution-free statistical evaluation based on the estimate of the 95th percentile.

The nonparametric test evaluated by EPA requires that a release of an RQ or more be reported to the National Response Center if the release exceeds the largest of the 19 most recently recorded releases. If fewer than 19 releases have been recorded, then the release would need to be reported to the National Response Center if it exceeds the largest previous release recorded to date. In essence, this nonparametric test is always comparing the newest release to the immediately previous 19 releases and is generally identifying the largest five percent of all releases as statistically significant increases.

In the following example, the person in charge of a facility releasing a CERCLA hazardous substance with an RQ of 10 pounds has made reports to the National Response Center for a determination period sufficient to establish the continuity and stability of the release. After such determination is made, the person in charge begins to identify those releases that are statistically significant increases. Releases in the post-determination period are compared with releases from the determination period. Assume that only five releases occurred in the determination period, as follows:

Release A— 40 pounds
Release B— 45 pounds
Release C— 30 pounds
Release D— 40 pounds
Release E— 20 pounds

Following written notification to the OSC, reports of statistically significant increases would need to be made to the National Response Center as noted:

Release 1—50 pounds; Report
Release 2—70 pounds; Report
Release 3—40 pounds; No Report
Release 4—150 pounds; Report
Release 5—60 pounds; No Report
Release 6—70 pounds; No Report
Release 7—80 pounds; No Report
Release 8—40 pounds; No Report
Release 9—70 pounds; No Report
Release 10—50 pounds; No Report
Release 11—100 pounds; No Report
Release 12—50 pounds; No Report
Release 13—60 pounds; No Report
Release 14—30 pounds; No Report
Release 15—70 pounds; No Report
Release 16—90 pounds; No Report
Release 17—40 pounds; No Report
Release 18—95 pounds; No Report
Release 19—100 pounds; No Report
Release 20—50 pounds; No Report
Release 21—30 pounds; No Report
Release 22—40 pounds; No Report
Release 23—90 pounds; No Report
Release 24—60 pounds; No Report
Release 25—110 pounds; Report

For each release 1 through 14, a report would be made to the National Response Center if it exceeds the largest previous release. Thus, releases, 1, 2 and 4 would be reported. Release 15 is then compared to releases A through 14 and is found not to be a statistically significant increase. Release 15 is then added to the release history and release A is deleted. Release 16 would be compared to releases B through 15. Because the release history contains at least one release that exceeds the 90 pounds in release 16, no report is needed. Release 16 is added to the release history and release B is deleted. For release 25, the relevant release history includes releases 6 through 24 (the most recent 19 releases). The 110 pounds in release 25 does need to be reported to the National Response Center because it exceeds the largest of the most recent 19 releases (even though release 4 is larger, it is no longer in the data base for purposes of comparison).

Over time, the nonparametric test will tend to identify successfully the largest five percent of all releases but it will not identify perfectly all outliers. The nonparametric test involves a sequential analysis, allowing for updating and modification of the reporting trigger. In the example above, the 100 pounds in releases 11 and 19 do not need to be reported but the 110 pounds in release 25 does need to be reported. This result occurs because the reporting trigger is being updated continually. Given the small amount of data available for releases A through 14, releases of less than 150 pounds do not appear to represent statistically significant increases. As more data become available, however, the test uses the newer data to reevaluate the reporting trigger.

A non parametric test is most appropriate in situations where the person in charge of the vessel or facility does not have historical data available and is unaware of the underlying release distribution. This nonparametric test does not require sophisticated statistical calculations; it is performed by simply comparing each new release to the most recent 19 releases.

2. Parametric Statistical Tests

EPA has analyzed the following two parametric tests for use in identifying a statistically significant increase and has found that when these tests reflect the appropriate underlying release distribution, they are sufficiently sensitive in identifying the largest five percent of all releases.

2.1 Student t Test

The Student t test is designed for use when the underlying release distribution is a normal distribution. The Student t test involves the calculation of a test value and a comparison of this test value with the t statistic. The test value is calculated by subtracting the mean of all releases (excluding the newest release) from the newest release, and dividing this difference by the standard deviation.

$$\text{Student t Test Value} = \frac{X_n - \bar{X}}{S},$$

where X_n is the most recent release, $\bar{X}$ is the mean or average of all releases excluding the newest release, and S is the sample standard deviation. $\bar{X}$ and S are calculated using the following formulas:

$$\bar{X} = \frac{X_1+X_2+\ldots+X_{n-1}}{n-1} \quad \text{and} \quad S = \sqrt{\frac{(X_1-\bar{X})^2+(X_2-\bar{X})^2+\ldots+(X_{n-1}-\bar{X})^2}{n-2}}$$

where n represents the number of releases in the data set.

The newest release is not included in the calculation of the mean and standard deviation for the Student t test. The test value obtained is compared to a table of reporting triggers shown in Exhibit 1. If the test value equals or exceeds the reporting trigger, the release is a statistically significant increase and must be reported to the National Response Center.

The Student t test is designed for use in situations when there are 30 or fewer data points, although it can be used when more than 30 data points are available. After 30 data points are accumulated, the Control Chart test (discussed in Section 2.2 below) and the Student t test are essentially synonymous because the reporting trigger is equivalent to a release of 1.645 standard deviations above the mean (see Exhibit 1).

EXHIBIT 1—STUDENT t TEST REPORTING TRIGGERS

	Reporting trigger at 95th percentile level
Number of observations:	
1	6.314
2	2.920
3	2.353
4	2.132
5	2.015
6	1.943
7	1.895
8	1.860
9	1.833
10	1.812
11	1.796
12	1.782
13	1.771
14	1.761
15	1.753
16	1.746
17	1.740
18	1.734
19	1.729
20	1.725
21	1.721
22	1.717
23	1.714
24	1.711
25	1.708
26	1.706
27	1.703
28	1.701
29	1.699
inf	1.645

2.2 Control Chart Test

The Control Chart test can only be used when at least 30 releases have been recorded. The Control Chart test is a dynamic test in that uses prior releases to form a data set in which the mean and standard deviation are calculated. When a new release is recorded, its value is compared to the reporting trigger. For a normal distribution, the reporting trigger is defined to be the mean (X) plus 1.8485 times the standard deviation. If the newly recorded release is less than $[\bar{X} + (1.8485)(S)]$, then the release is not considered to be a statistically significant increase and does not need to be reported to the National Response Center. The release is then added to the release history and a new mean and standard deviation are calculated. If the next new release is greater than $[\bar{X} + (1.8485)(S)]$, then the release must be reported to the National Response Center and the release is not included in the release history; there is no recalculation of the mean and standard deviation.

This Control Chart test will dependably identify the top five percent of releases only when the underlying distribution is normal. If the underlying distribution is lognormal, for example, the Control Chart test as presented above will trigger reporting of fewer than five percent of the releases. An appropriate Control Chart test can be developed for any known distribution for which there is a specific mathematical equation for the cumulative distribution, or for which there exists a published table of the distribution. To use the Control Chart test to identify release in the top five percent, it is imperative that the underlying distribution be known.

Example

Release 1—10 pounds
Release 2—15 pounds
Release 3—70 pounds

Release 4—30 pounds
Release 5—60 pounds
Release 6—50 pounds
Release 7—40 pounds
Release 8—80 pounds
Release 9—70 pounds
Release 10—70 pounds
Release 11—30 pounds
Release 12—40 pounds
Release 13—50 pounds
Release 14—90 pounds
Release 15—47 pounds
Release 16—12 pounds
Release 17—25 pounds
Release 18—33 pounds
Release 19—75 pounds
Release 20—100 pounds
Release 21—110 pounds
Release 22—50 pounds
Release 23—105 pounds
Release 24—80 pounds
Release 25—40 pounds
Release 26—20 pounds
Release 27—60 pounds
Release 28—40 pounds
Release 29—90 pounds
Release 30—40 pounds

For the 30 releases shown above, the mean is 54.40 and the sample standard deviation is 28.14 (the general method for calculating a mean and standard deviation is described in Section 2.1 above). Any release greater than 106.42 pounds [54.40 + (1.8585)(28.14)] must be reported to the National Response Center. If release 31 equals 90 pounds, it is less than the trigger value of 106.42 pounds and need not be reported to the National Response Center. This release is added to the data set and a new trigger value is calculated. The sample standard deviation now equals 28.39, the mean equals 55.55, and the trigger value is equal to 108.03. If release 32 is equal to 110 pounds, it must be reported to the National Response Center because it is greater than the trigger value of 108.03 pounds. The trigger value remains the same for the next release because the 110 pound release is not added to the release history and no new standard deviation is calculated.

3. Demonstration Requirements for Alternative Tests

Persons in charge who want to use a statistical test other than the nonparametric test discussed above need to demonstrate the appropriateness of the test. The demonstration must include the following:

- If the statistical test used is the Student t test or the Control Chart test described in Section 2 above the demonstration must show that the underlying release distribution is normal.
- For any other alternative test, the person in charge must present evidence that the sensitivity of the alternative test is at least 60 percent accurate in identifying the true outliers or, if not, is at least equivalent in sensitivity to the most sensitive test among the nonparametic test, the control chart test, or the Student t test, described above. The demonstration must be made on a data set of at least 100 data points. The actual outliers must first be identified by examining the test data base and determining which releases are in fact in the top 5 percent of all releases. This determination involves a straightforward observation of the test data base. The alternative test must then be applied to this same data set to determine the sensitivity of the test. Sensitivity is defined to be the fraction of release identified by the test that are actually in the top 5 percent of all releases over the total number of releases in the top 5 percent. This ratio must be at least 0.6 or the alternative test must be at least as sensitive as the three tests mentioned above.

For example, if the test data set contains 200 releases, the demonstration begins by first identifying the largest 10 releases in the data set (the largest 5 percent of all releases). The alternative test must then be applied to these 200 releases. The sensitivity of the alternative test is the number of correctly identified statistically significant increases over the total number of statistically significant increases. If the alternative test correctly identifies 7 of the 10 releases in the top 5 percent, then the sensitivity of the alternative test is 0.7 and the demonstration is complete and satisfactory. If the alternative test correctly identifies only 5 of the 10 releases in the top 5 percent, then the sensitivity of the alternative test is only 0.5. Although the sensitivity is less than 0.6, the alternative test would still be considered acceptable if the nonparametric test, control chart test, or Student t test outlined above applied to the same data set also are only capable of identifying 5 of the 10 releases in the top 5 percent. The sensitivity of the alternative test would then be equivalent to the sensitivity of the three tests described above and the demonstration would be complete and satisfactory.

All demonstrations must remain on file at the facility (or, in the case of a vessel, at an office within the United States in either a port of call or place of regular berthing) and must be made available to EPA upon request.

PART 355—EMERGENCY PLANNING AND NOTIFICATION

3. The authority citation for Part 355 is revised to read as follows:

Authority: 42 U.S.C. 11002 and 11048.

4. Section 355.40 is amended by revising paragraphs (a)(1) and (a)(2)(iii), adding (a)(2)(iv), and revising (a)(2)(v) and the note to paragraph (a) to read as follows:

§ 355.40 Emergency release notification.

(a) *Applicability.* (1) The requirements of this section apply to any facility:

(i) At which a hazardous chemical is produced, used, or stored; and

(ii) At which there is a release of a reportable quantity of any extremely hazardous substance or CERCLA hazardous substance.

(2) * * *

(iii) Any release that is:

(A) Continuous without interruption or abatement;

(B) Continuous during operating hours; or

(C) Continuous during regularly-occurring batch processes, and stable in quantity and rate, as determined in accordance with 40 CFR 302.8 (except for "statistically significant increases" defined in 40 CFR 302.8(d) as the largest five percent of all continuous releases and determined in accordance with the statistical methodologies described in § 302.8(d));

(iv) Any release of a pesticide product exempt from CERCLA section 103(a) reporting under section 103(e) of CERCLA; and

(v) Any release exempt from CERCLA section 103(a) reporting under section 101(22) of CERCLA.

Note: Releases of CERCLA hazardous substances are subject to the release reporting requirements of CERCLA section 103, codified at 40 CFR Part 302, in addition to the requirements of this part.

* * * * *

[FR Doc. 88-8550 Filed 4-18-88; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
April 19, 1988

Part III

Department of Commerce

National Bureau of Standards

15 CFR Part 7

Privatization of Certain Functions of the National Voluntary Laboratory Accreditation Program; Request for Comments

DEPARTMENT OF COMMERCE

National Bureau of Standards

15 CFR Part 7

[Docket No. 80354-8054]

Privatization of Certain Functions of the National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Request for comments.

SUMMARY: The National Bureau of Standards (NBS) requests public comments on the feasibility, advisability and appropriateness of permitting private institutions to assume responsibility for the accreditation of laboratories in specified technical areas for which NBS now accredits laboratories under the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP). NBS would withdraw from accreditation activities in the particular technical area if (1) public comments support the withdrawal of accreditation activities by NBS in the particular technical area; and (2) competent private organizations were identified that would be capable of performing accreditation in that technical area. NBS is considering this initiative in accord with the Administration's policy to privatize appropriate governmental activities. NVLAP accreditation activities will continue without interruption during the time when this initiative is under consideration.

DATE: Responses to this request for comments must be received by June 20, 1988.

ADDRESS: Comments should be mailed to Dr. Stanley I. Warshaw, Director, Office of Products Standard Policy, Room A602 ADMIN, National Bureau of Standards, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Stanley I. Warshaw, (301) 975-4000.

SUPPLEMENTARY INFORMATION: NVLAP is a voluntary program of NBS under which testing laboratories found competent to perform tests or types of tests in specific technical areas are accredited. NVLAP is completely self-sustaining from user fees paid to it by the laboratories it accredits, and receives no appropriated funds. The NVLAP accreditation procedures appear as part 7 of title 15 of the Code of Federal Regulations, and are summarized in brief below. Subpart A of the NVLAP procedures contains a description of the program and its objectives. Subpart B of the procedures describes how particular technical areas are selected for accreditation by the NVLAP program, and how the technical requirements for accreditation in a particular area are determined. In short, the decision to offer NVLAP accreditation in a particular technical area is made by NBS only after a notice and comment process in the **Federal Register** has established the need for accreditation. The technical requirements which a laboratory must meet in order to be accredited are then established by NBS, based on expert advice obtained through workshops and other means.

Once the requirements of Subpart B are met for a particular area, individual laboratories may request NBS accreditation and be evaluated by NVLAP under the procedures found at Subpart C of the NVLAP regulations. Upon the receipt of a request for accreditation from a laboratory, and after the payment of appropriate fees, NVLAP arranges, by contract or otherwise, for an assessment and evaluation of the laboratory by a qualified expert. After receiving the evaluation report, NBS either grants or denies the application for accreditation. A laboratory denied accreditation may seek a hearing to appeal the decision under the provisions of section 556 of Title 5 of the United States Code. The conditions and criteria upon which NBS's accreditation decisions are made may be found at Subpart D of the NVLAP regulations.

Consistent with the Administration's goal of privatizing appropriate Federal functions and activities, NBS is contemplating the feasibility, advisability and appropriateness of permitting private institutions to assume responsibility for the accreditation of laboratories in specified technical areas for which NBS now accredits laboratories under the NVLAP procedures. Private organizations would evaluate laboratories and would grant accreditation on their own behalf. NVLAP accreditation activities will continue without interruption during the time when this initiative is under consideration.

The process whereby NBS would withdraw from accreditation of laboratories in a specific technical area is envisioned to work as follows. In accordance with § 7.19 of the NVLAP procedures, the Director of NBS would issue a **Federal Register** notice stating that NBS was considering withdrawing from accreditation activity in a particular technical area. The notice would seek public comment on the proposed termination of accreditation, and would seek statements by private sector organizations of interest in undertaking accreditation activities in the technical area that NBS had proposed to vacate. NBS would end its accreditation activities in the particular technical area if (1) public comments support the withdrawal of accreditation activities by NBS in the particular area; and (2) competent private organizations were identified that would be capable of performing accreditation in that technical area. However, NBS will not withdraw from any accreditation activity mandated by statute, such as the Asbestos Hazard Emergency Response Act of 1986 (Pub. L. 99-519) or pending trade legislation. NBS would not monitor the continuing activities of any private organization that took over accreditation activities now performed by NVLAP, nor would NBS offer an appeals process for laboratories seeking accreditation or accredited by those private organizations.

Request for Comments

Comments are encouraged from interested parties on all aspects of the proposal described in this notice, including its feasibility, advisability and appropriateness. Comments are also requested on the following issues pertaining to the mechanics of the process of transferring specific accreditation activities to the private sector:

1. Should NBS establish criteria which potential private accrediting organizations must meet before NBS would withdraw from accreditation in a particular technical area? Further, should NBS formally recognize other accreditation organizations that satisfy these criteria?

2. What fees, if any, would be appropriate for NBS to charge to those private organizations that begin to operate functions now performed by NBS? (These fees might recover the cost of NBS close-out activities and the original development costs of the NVLAP program which were paid for from appropriated funds, as well as additional fees for market opportunity and enhancement through this action.)

Comments responding to this notice should be submitted not later than June 20, 1988 to Dr. Stanley I. Warshaw, Director, Office of Products Standard Policy, Room A602 ADMIN, National Bureau of Standards, Gaithersburg, MD 20899. All written Comments furnished in response to this notice will become part of the public record and will be available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Herbert Hoover Building, Room 6628, 14th Street between E Street and Constitution Avenue NW., Washington, DC 20230.

Ernest Ambler,

Director.

[FR Doc. 88-8474 Filed 4-18-88; 8:45 am]

BILLING CODE 3510-13-M

federal register

Tuesday
April 19, 1988

Part IV

Department of Labor

Employment and Training Administration

Research, Evaluation, and Pilot and Demonstration Projects Program; Fiscal Year 1988; Availability of Funds and Request for Applications; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Research, Evaluation, and Pilot and Demonstration Projects Program; Fiscal Year 1988; Availability of Funds and Request for Applications

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of availability of funds and of Solicitation for Grant Applications.

SUMMARY: The Employment and Training Administration announces the availability of funds for its Stewart B. McKinney Homeless Assistance Act Job Training for the Homeless Demonstration Program for Fiscal Year 1988.

DATES: The closing for receipt of applications under this anouncement is June 20, 1988. To receive consideration, applications submitted by mail must be postmarked no later than June 13, 1988.

Hand-delivered applications must be received by 2:00 p.m., local time, on June 20, 1988. The term "postmark" means a printed, stamped or otherwise placed impression (exclusive of postage meter machine impression) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employees of the U.S. Postal Service.

ADDRESS: It is preferred that applications be mailed. Mail or hand deliver applications to: U.S. Department of Labor, Employment and Training Administration, Office of Financial and Administrative Management, Division of Acquisition and Assistance, Room C-4305, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: John Mitchka, Reference: *SGA/DAA 103-88.*

FOR FURTHER INFORMATION CONTACT: John Mitchka, Division of Acquisition and Assistance, Telephone: (202) 523-7092.

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) announces the availability of funds for its Job Training for the Homeless Demonstration Program for Fiscal Year 1988 and a Solicitation for Grant Applications under that program. Funding for these grants is authorized by the Stewart B. McKinney Homeless Assistance Act, Pub. L. 100-77, section 731(a), 101 Stat. 482, 528 (1987).

This program announcement consists of four parts. Part I provides background information on the ETA Research, Evaluation, and Pilot and Demonstration Projects Program. It describes the need for and the legislative background of job training for the homeless. Part II describes the program for which ETA solicits applications for funding of job training projects for homeless individuals. Part III describes the grant application process, and Part IV provides guidance on how to prepare and submit an application.

Part I—Background

A. ETA's PY 1987 and FY 1988 Research, Evaluation, and Pilot and Demonstration Program in Relation to Workforce 2000

This Solicitation for Grant Applications (SGA) notice, covering the general subject of job training for the homeless, is one of a series of such notices pertaining to different subject areas for which grant and contract awards will be made by ETA during Program Year 1987 (July 1, 1987–June 30, 1988) and during Fiscal Year 1988 (October 1, 1987–September 30, 1988), for research, evaluation, and pilot and demonstration (REP&D) projects. The other areas initially announced in 52 FR 41366 (October 27, 1987) are: State and Local Coordination, Labor Market Research, Workplace Literacy, Job Training Partnership Act, Employment Service/Unemployment Insurance/Labor Market Information, and Partnership.

These areas, which constitute the major portion of the PY 1987 and Fiscal Year 1988 REP&D Program, support the Department of Labor's (DOL) Workforce 2000 mission. According to recent DOL studies, the bulk of labor force entrants between now and the year 2000 will consist of groups that have been traditionally underutilized or have experienced labor market barriers—women, minorities, immigrants, and the homeless. At the same time, the employment base of the economy is changing in structure from that of manufacturing to services. Many new jobs will require higher levels of reading, communication, mathematical and problem-solving skills than at present.

We now face an unprecedented opportunity and need to help prepare those who have suffered chronic unemployment or underemployment—including homeless individuals—to meet the evolving requirements for workforce participation. The purpose of this program announcement is to solicit projects that will provide the information and data that are necessary before a national policy on training for the homeless may be developed.

In FY 1988, ETA will make grant awards for demonstration projects that provide for job training activities for homeless individuals. It is anticipated that a maximum of $7.359 million will be available to support approximately 25 demonstration projects nationwide. These funds must be expended by grantees by September 30, 1989.

B. The Homeless—Their Need for Employment and Training

No one knows exactly how many homeless people live in the United States. The estimates range from 250,000 to over 3 million individuals. It follows, therefore, that the number or proportion of the homeless who are employed, unemployed or employable is also unknown.

We do know that homeless persons often have a history of poverty. Further, while there are multiple and interrelated factors contributing to homelessness, the factor most often cited as contributing to homelessness is unemployment. Other factors often mentioned are the decline in the supply of low-income housing, and the deinstitutionalization of mentally ill patients.

We also know that the composition of the homeless population has changed. Unlike the stereotype of the Skid Row inhabitant of the past, in the 1980's the homeless are a heterogeneous population comprised of many subgroups. The homeless population is becoming younger, with an increase in minorities, women and families. There are more children (including runaways), veterans, immigrants, migrants, abuse victims, elderly, and handicapped people who are homeless. Many of the homeless are high school graduates and, despite unemployment being cited as a contributing factor to homelessness, many are employed.

While the unemployment rate has gone down dramatically since 1983, the impact the lower rate is having on those already homeless is unknown. Many homeless people acquire new problems from living on the streets and may not now be able to hold a job. Having no fixed address or home phone number compounds the difficulty in finding jobs.

C. Legislative Background

In July 1987, the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77) (McKinney Act) became law. It is the first comprehensive Federal law to address the complex problem of homelessness in America.

The McKinney Act was the result of Congress responding to its findings that the Nation faces a crisis due to lack of shelter for a growing number of individuals and families. Congress further found that the problem is expected to become worse because "the

causes of homelessness are many and complex, and homeless individuals have diverse needs; [and] there is no single, simple solution to the problem because of the . . . different causes of homelessness, and the different needs of homeless individuals". Pub. L. 100–77, section 101(a)(3) and (4).

As part of the McKinney Act's comprehensive approach to addressing the problems of the homeless, Section 731 of the McKinney Act authorizes the Secretary of Labor to award grants for new job training demonstration projects for homeless individuals. The grants will be administered by ETA.

ETA also administers the Job Training Partnership Act (JTPA), the Nation's major job training program for economically disadvantaged adults and youth. 29 U.S.C. 1501 *et seq.* JTPA does not specifically target programs on homeless individuals, although JTPA funds are being used to provide job training for homeless individuals in a number of localities. The newly authorized job training demonstration program in Pub. L. 100–77 thus represents the first Federal effort specifically addressing employment-related problems of *all types* of homeless individuals.

In 1987, prior to the passage of the McKinney Act, the Office of the Assistant Secretary for Veterans' Employment and Training (OASVET) began targeted assistance for one subgroup of the homeless—the Jobs for Homeless Veterans Program—with discretionary funds set aside from Title IV, Part C, of JTPA (Veterans' Employment Programs). 29 U.S.C. 1721. Grantees (governmental units in selected cities) hire, train and supervise veterans who have experienced homelessness to perform outreach to homeless veterans.

The McKinney Act at Section 738 provides for Homeless Veterans' Reintegration Projects (HVRP). The experience of the Jobs for Homeless Veterans Program will be used in the design and implementation of the HVRP. This program is administered by OASVET. It is a separate effort from the job training demonstration program discussed in this solicitation.

Part II—Program Description

A. Program Purpose and Goals

ETA's demonstration program is designed to be highly responsive to the intent of the McKinney Act as specified in the statute and in the Conference report. It has an overall purpose and two supporting goals. The overall purpose is:

—To provide information and direction for the future of job training programs for homeless Americans. The conferees acknowledged "that additional information and data are necessary before a detailed national policy on training for the homeless may be developed."

The supporting goals are:

—To gain information on how to provide effective employment and training services to homeless individuals to address the employment-related causes of homelessness and their job training needs; and

—To learn how States, local public agencies, private nonprofit organizations, and private businesses can develop effective systems of coordination to address the causes of homelessness and meet the needs of the homeless, including attainment of transitional or permanent housing outside of shelters.

The focus is on knowledge building to inform national policy, program content, and system development

Recognizing the diversity of subgroups within the homeless population, ETA intends that the demonstration program as a whole will include the full spectrum of homeless people—not only the most job ready or those easiest to serve. Applicants may, however, propose projects that emphasize assistance to *subgroups* within the homeless population. These include—but are not limited to—the chronically mentally ill, substance abusers, families with children, single men, single women, and homeless youth. Because there is a separate program for homeless veterans under section 738 of the Act, applicants may not propose programs that are limited solely to veterans.

ETA suggests that the "case management" approach is a preferred method for providing job training for the homeless. That is, one or more managers are charged with moving an individual through all the services necessary for placement and retention (for at least 13 weeks) in a stable job. The case management approach provides homeless individuals with a personal advocate to help negotiate bureaucratic obstacles. This approach has proved useful where there are multiple problems and an array of individual needs. This is not the only model, however, and other approaches will be considered.

B. Target Population

For purposes of this solicitation, the target population includes persons 14 years of age or older who are homeless. The term "homeless" or "homeless individual" includes persons who lack a fixed, regular, and adequate nighttime residence. It also includes persons whose primary nighttime residence is either a supervised public or private shelter designed to provide temporary living accommodations; an institution that provides a temporary residence for individuals intended to be institutionalized; or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

C. Activities for Which Support Is Available

ETA is interested in demonstrating innovative and replicable approaches to providing job training to the target population. Each project must: (1) Provide coordination and outreach activities designed to achieve referral of homeless people to these demonstration projects; (2) provide in-shelter outreach and assessment activities and, where practicable, pre-employment services in order to increase participation of the target population; and (3) provide or contract for job training activities. These activities must include one or more of the following:

—Remedial education activities and basic skills instruction;

—Basic literacy instruction;

—Job search activities;

—Job counseling;

—Job preparatory training, including resume writing and interviewing skills; and

—Any other activities described in section 204 of JTPA which will contribute to carrying out the purposes and goals of these demonstration projects. (See Appendix A for the language of JTPA, section 204, 29 U.S.C. 1604).

Four of the activities in section 204 that ETA wishes to single out as especially important to the homeless population for placement and retention in stable jobs are institutional skill training, on-the-job training, work experience, and followup services.

Given the multiple problems and needs of many homeless individuals, ETA will give special consideration to applications that emphasize approaches to job training for adults (over age 21) that provide a continuity of service to individuals from application through the end of the retention-in-employment period. Applications that propose to serve homeless youth (ages 14 through 21) may emphasize approaches that emphasize employability enhancement, such as high school completion, rather than job placement.

D. Evaluation Component

All grantees will be required to participate in an evaluation process. Evaluation will be conducted at two levels: (1) Individual project evaluations; and (2) a national evaluation across all grantee projects. Each grantee must complete a preliminary evaluation of their project no later than July 1, 1989 (see II F 2 [c] below).

The national evaluation, to be managed by ETA as specified in section 736 of the McKinney Act, must provide for a preliminary evaluation of each project receiving assistance by September 30, 1988. This preliminary evaluation will be submitted by the Department of Labor to the Interagency Council on the Homeless. The national evaluation must be complete in the form of a final report to the President, to the Congress, and to the Interagency Council by April 1, 1990. In addition to the Department of Labor's evaluation, the Interagency Council must evaluate each project receiving assistance.

Both individual project evaluations and the national evaluation shall include (as specified by section 736(b) of the McKinney Act) information on:

—The number of homeless individuals served;
—The number of homeless individuals placed in jobs;
—The average length of training time under the project;
—The average training cost under the project; and
—The average retention rate of placements of homeless individuals after training. ETA defines the period over which retention is to be measured as 3 months (13 weeks).

Other measures, such as the number of homeless individuals placed in transitional or permanent housing outside of shelters, may be added to the national evaluation.

Grantees will participate in this effort by providing staff to administer the evaluation, make data available for the project and national evaluations, and submit preliminary and final individual project evaluation reports. Grantee budgets must include expected costs for evaluation activities. A grant will not be awarded unless it has included an evaluation component in its application. The national evaluation will be conducted to (1) determine the effectiveness of the national demonstration program and (2) compare, to the extent possible, outcomes in different programs and/or communities. Effectiveness will be measured primarily in terms of the degree to which grantees have met program performance standards. The national evaluation staff will provide technical assistance to grantees on all aspects of the evaluation (including developing formats for acquiring compatible information from the grantees), conduct aggregate-level data analysis, and prepare the preliminary and final national evaluation reports.

E. Coordination

Section 732 of the McKinney Act requires States to describe in their Comprehensive Homeless Assistance Plan (CHAP) how the State will coordinate job training demonstration projects with other services for homeless individuals under the Act. The CHAP is required in section 401 of the McKinney Act. To assist in this coordination, all applications must be reviewed for consistency prior to submittal to ETA by the organization in each State responsible for development of the CHAP.

F. Reporting Requirements

The grantee shall furnish the reports and documents listed below:

1. Financial Reports

The grantee shall submit to the Federal Representative, Department of Labor, an original and two copies of a monthly detailed account of expenditures. The detailed report of expenditures must include the same line items of cost categories as those specified in the grant budget.

2. Program Reports

(a) *Quarterly Progress Reports.* The grantee shall submit to the Federal Representative within 10 days following the end of each quarter, five copies of a quarterly progress report, which provides a detailed account of services provided during each quarter of grant performance. Reports shall include, in brief narrative form, such information as:

(1) A description of overall progress of work activities accomplished during the reported period;

(2) An indication of any current problems which may delay performance, and proposed corrective action, if any; and

(3) Program status and financial data/information relative to expenditure rate versus budget, anticipated staff changes, etc.

(b) *Detailed Content Outline of the Evaluation Report.* Five copies must be submitted by May 1, 1989.

(c) *Preliminary* Evaluation Report. This report shall summarize project activities and results and shall be submitted in 10 copies by July 1, 1989.

(d) *Final* Evaluation Report. This report shall summarize project activities and results and shall be submitted in 10 copies by the grant expiration date.

Part III—Application Process

A. Eligible Applicants

As specified in section 731(a) of the act, applications may be submitted by State and local public agencies, by private non-profit organizations, and by private businesses. Applications may also be submitted by Indian tribes as specified in section 762(b) of the Act.

Eligible applicants include—but are clearly *not* limited to—JTPA Private Industry Councils (PICs) and/or JTPA administrative entities at the State and local level. Individuals are not eligible to apply. ETA encourages applications that are developed jointly by State and local agencies, by private non-profit organizations and/or by private businesses because this helps to coordinate resources and achieve maximum benefit from the grant funds.

B. Federal Fiscal Requirements

Section 735 of the McKinney Act limits the Federal share of the cost of activities. ETA will make grant awards for at least 50 percent and no more that 90 percent of the cost of activities described in the application. Applicants are encouraged to provide the highest feasible non-Federal share of the cost of the project. High cost-sharing demonstrates applicant commitment to continue the activities and enables limited Federal resources to produce the maximum amount of information useful for the future of job training programs for homeless Americans.

Applicants are required to assure that they will pay the non-Federal share of the activities from non-Federal sources. The non-Federal share may be in cash or in kind, fairly evaluated, including plant, equipment and resources.

As specified in section 762(a)(1) of the McKinney Act, a minimum of $115,000 of the grants under this solicitation will be allocated to Indian-tribe applicants (1.5 percent of the FY 1988 appropriation).

Pursuant to section 735(c) of the McKinney Act, ETA will not make grants in any State under this solicitation in an aggregate in excess of $1.149 million (15 percent of the amount appropriated in FY 1988 for this grant program).

Grants to Indian tribes will count toward this per-State aggregate limitation.

C. Criteria for Screening and Review

All applications that meet the deadline will be screened to determine

completeness and conformity to the requirements of this announcement. Complete, conforming applications will then be reviewed and evaluated competitively against the evaluation criteria specified below in 2. Evaluation Criteria.

1. Screening Requirements

In order for an application to be in conformance it must include the following:

(a) Fact Sheet. This fact sheet must include the following: (1) Legal name of institution or organization submitting proposal; (2) address of institution or organization, including zip code; (3) telephone number of institution or organization, including area code; and (4) name, position, and telephone number of official who is approving the submission of the proposal. This person must be someone with legal authority to commit the organization to the proposed project.

(b) Budget Information (see Appendix B).

(c) Project Narrative: The narrative portion of the application must not exceed twenty-two (22) double-spaced pages, typewritten on one side of the paper only.

The narrative must address the elements specified in section 733 of the Act:

—A description of activities for which assistance is sought (what the project will do and how the project will be conducted);
—Plans for coordination and outreach activities, particularly with case managers and care providers, designed to achieve referral to the proposed project;
—Plans to offer in-shelter outreach and assessment activities and, where practicable, pre-employment services, to increase participation of homeless individuals;
—A description of the standards by which performance will be measured under the project (these standards need not bear any relationship to those required for adult and youth programs under Title II–A of JTPA, section 106);
—Assurance that a preliminary evaluation will be completed not later than the end of the first calendar year of project assistance; and
—Assurance that the applicant will pay the non-Federal share of the activities from non-Federal sources.

(d) Letter from the relevant State agency indicating that the application has been reviewed for consistency with the Comprehensive Homeless Assistance Plan, as specified above in II E.

2. Evaluation Criteria

Reviewers will score the applications, basing their scoring decisions on the following criteria.

(a) Need for the project: *20 points.* The application shall describe, in concrete terms, the problems of homeless individuals that prompt the applicant to propose the project. The application must discuss the need for the project in terms of its State and/or local significance, including estmates of the number of homeless individuals of the type proposed to be served in the area to be served. It must describe the importance of the issues to be addressed and how they relate to section 102. (Findings and Purpose) of the McKinney Act.

(b) Project Methodology: *40 points.* The application must describe specific plans for conducting the project in terms of the tasks to be performed.

Project methodology includes the following application elements, as specified in section 733 of the McKinney Act:

—A description of activities for which assistance is sought (what the project will do and how the project will be conducted);
—Plans for coordination and outreach activities, particularly with case managers and care providers, designed to achieve referral to the proposed project; Coordination includes other services for homeless individuals discussed in the State CHAP.
—Plans to offer in-shelter outreach and assessment activities and, where practicable, pre-employment services, to increase participation of homeless individuals;
—Assurance that a preliminary evaluation will be completed not later than the end of the first year of project assistance. The application will also be scored on its description of evaluation activities. This assurance and description must be consistent with the "Evaluation Component" section of Part II D, above.

In addition to these elements of the application contained in the McKinney Act, the application must include:

—Discussion of the "plausibility" of the proposed project—the key assumptions underlying the project and evidence to support why the approach proposed is likely to accomplish the project objectives.
—Discussion (preferably incorporating a chart) providing a time-phasing of tasks and their interrelationships and demonstrating how the project will be started up, operated and phased out or supported when the grant period ends on September 30, 1989, and
—Discussion (preferably including client flow chart) which depicts the planned sequence of services to be provided to clients and the role of each participating organization.

(c) Expected Outcomes: *10 points.* The proposed project is intented to result in a measurable, concrete reduction of a significant problem associated with homelessness that can be addressed by job training. Outcomes as opposed to process measures are preferred. These outcomes must include a clear description of project's performance standards as required by section 733(4) of the McKinney Act. For the homeless population, ETA is especially interested in a high number of placements for adults and a high retention rate of placements over at least a 13-week period.

(d) Level of effort: *20 points.* The resources needed to conduct the project must be specified including personnel, time, funds, and facilities. These resouces should be adequate to the work described in the application. The staff should be qualified and should have the skills required and demonstrated ability to produce the expected outcomes. The staffing pattern must clearly link responsibilities to project tasks. The total cost of the project must be reasonable in view of anticipated results. Collaborative efforts with other agencies or organizations must be clearly identified and written assurances referenced. A description by category (personnel, travel, etc.) of the total funds required and of the sources of outside support that will be used to meet the matching requirements must be included. The funds (total of Federal share and non-Federal share) must be specified. (See Appendix B). Projects proposing a higher non-Federal share will be considered more favorably under this criterion, other factors being equal.

(e) Organizational Capability: *10 points.* The application must provide a brief (maximum 2 pages double-spaced) background description of how the applicant organization (or the particular division of a larger organization which will have responsibility for this project) is organized and the types and quality of services it provides not included in the program narrative under level of effort. It may include descriptions of any current or previous relevant experience or describe the competence of the project team and its demonstrated

ability to produce results. It may include a description of the qualification of key staff described in a few paragraphs rather than in formal vitae. This statement must include the names of contact persons from two organizations to which the applicant organization was provided services within the past 6 months. The statement must include the position of these contact persons within their organizations and their telephone numbers.

These evaluation criteria correspond to the narrative section of the application as specified in Part IV below. The descriptions of the five criteria above should be considered in developing the program narrative.

Applicants are advised that discussions may be necessary in order to clarify any inconsistencies in their applications. The final decision on the award will be based on what is most advantageous to the Federal Government in terms of technical quality and other factors as determined by the ETA Grant Officer. Evaluation by reviewers are advisory only to the Grant Officer.

D. Closing Date for Receipt of Applications

The closing date for submittal of applications under this program announcement is June 20, 1988.

Part IV—Instructions for Completing Applications

A. Contents

You are required to send an original and five copies of an application. Each application must contain:

1. Fact Sheet [see Part III C 1(a)]
2. Budget Information (see Appendix B)
3. Project Narrative—should be no more than twenty-two (22) double-space typewritten pages, using one side of the paper only. Your narrative should provide information on how the application meets the evaluation criteria in Part III of this announcement.

We strongly recommend that you follow this format and page suggestions for the narrative:

a. Need for the Project (4 pages double-spaced).

b. Project Methodology (10 pages double-spaced).

c. Expected Outcomes (3 pages double-spaced).

d. Level of Effort: (3 pages double-spaced).

e. Organizational Capability Statement (2 pages double-spaced).

4. Letter from the appropriate State Agency reviewing application for consistency with the CHAP.

The application may also contain letters that show collaboration or substantive commitment to the project by organizations other than the applicant organization. ETA suggests but does not require that applicants obtain such letters from local Private Industry Councils (PICs) and from chief elected officials (as defined in JTPA, Section 4 [4], The State Governor or the governing body within a Service Delivery Area). Such letters are not part of the narrative and, therfore, are not counted against the twenty-two-page limit for the narrative.

Signed at Washington, DC, on April 13, 1988.

Roberts T. Jones,

Acting Assistant Secretary of Labor.

Appendix A—Section 204 of the Job Training Partnership Act

Sec. 204. Services which may be made available to youth and adults with funds provided under this title may include, but need not be limited to—

(1) job search assistance,

(2) job counseling,

(3) remedial education and basic skills training,

(4) institutional skill training,

(5) on-the-job training,

(6) programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment,

(7) training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply,

(8) outreach to make individuals aware of, and encourage the use of employment and training services,

(9) specialized surveys not available through other labor market information sources,

(10) programs to develop work habits and other services to individuals to help them obtain and retain employment,

(11) supportive services necessary to enable individuals to participate in the program and to assist them in retaining employment for not to exceed 6 months following completion of training,

(12) upgrading and retraining

(13) education-to-work transition activities,

(14) literacy training and bilingual training,

(15) work experience,

(16) vocational exploration,

(17) attainment of certificates of high school equivalency,

(18) job development,

(19) employment generating activities to increase job opportunities for eligible individuals in the area,

(20) pre-apprenticeship programs,

(21) disseminating information on program activities to employers,

(22) use of advanced learning technology for education, job preparation, and skills training,

(23) development of job openings,

(24) on-site industry-specific training programs supportive of industrial and economic development,

(25) followup services with participants placed in unsubsidized employment,

(26) coordinated programs with other Federal employment-related activities,

(27) needs-based payments necessary to participation in accordance with a locally developed formula or procedure, and

(28) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training.

Appendix B—Budget Information

Each applicant shall submit a project budget using the following format. In addition, a detailed breakdown supporting each budget line item is required.

	Government	Grantee contribution	Total
Direct costs:			
Staff salaries and wages.	$ ——	$ ——	$ ——
Fringe benefits for staff.	——	——	——
Staff travel and per diem.	——	——	——
Consultant fees	——	——	——
Materials and supplies.	——	——	——
Communications	——	——	——
Subcontract	——	——	——
Total direct costs	$ ——	$ ——	$ ——
Indirect costs	——	——	——
Total estimated cost*.	$ ——	$ ——	$ ——

[FR Doc. 88-8587 Filed 4-18-88; 8:45 am]

BILLING CODE 4510-30-M

federal register

Tuesday
April 19, 1988

Part V

Department of Agriculture

Commodity Credit Corporation

Proposed Determinations With Regard to the 1989 Wheat Program and Common Program Provisions; Notice

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Proposed Determinations With Regard to the 1989 Wheat Program and Common Program Provisions

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1989 crop of wheat: (a) The percentage reduction under an acreage reduction program (ARP); (b) whether an optional paid land diversion (PLD) should be established and, if so, the percentage of diversion under the program; (c) whether a marketing loan program should be implemented; (d) if a marketing loan program is implemented, whether the inventory reduction program should also be implemented; and (e) other related provisions.

The Secretary of Agriculture also proposes to make the following common program determinations with respect to the 1989 crops of wheat, feed grains, cotton (extra long staple (ELS) and upland) and rice: (a) Whether the production of approved nonprogram crops (ANPC) should be allowed on underplanted program crop permitted acreage ("0/92" and "50/92" conservation use (CU) acreage); (b) whether the production of alternative crops should be allowed on reduced acreage (acreage conservation reserve (ACR)); (c) whether haying and grazing of CU and ACR should be permitted; (d) whether to require offsetting or cross compliance; (e) whether advance recourse commodity loans should be made available; (f) whether a multiyear set-aside program should be implemented; and (g) whether producers should be permitted to increase a crop acreage base ("CAB") by an amount not to exceed 10 percent of farm acreage base ("FAB") if such producers decrease one or more other CAB's on such farm by a corresponding amount.

These determinations are made pursuant to the Agricultural Act of 1949, as amended (the "1949 Act"), and the Commodity Credit Corporation (CCC) Charter Act, as amended.

DATE: Comments must be received on or before May 16, 1988, in order to be assured of considerations.

ADDRESS: Dr. Orval Kerchner, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Bradley Karmen, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3740, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447–4635. The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed determination and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "major.".

It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The titles and numbers of the Federal assistance programs, as found in the catalogue of Federal Domestic Assistance, to which this notice applies are:

Titles	Numbers
Commodity Loans and Purchases	10.051
Cotton Production Stabilization	10.052
Feed Grains Production Stabilization	10.055
Wheat Production Stabilization	10.058
Rice Production Stabilization	10.065

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

It has been determined by environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

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

Certain determinations set forth in this notice with respect to the 1989 Wheat Program are required to be announced by the Secretary by June 1, 1988. In addition, it is necessary that the determinations for the 1989 crop be made in sufficient time for wheat producers to make planting decisions for their 1989 crop. Accordingly, the public comment period is limited to 30 days from the date this notice is filed with the Director, Office of the Federal Register in order to be assured of consideration. This will allow the Secretary time to consider the comments received before the program determinations are made. The comments received with respect to this notice of proposed determination will be reviewed in determining the provisions of the 1989 Wheat Program and Common Program Provisions.

Accordingly, the following program determinations are proposed to be made by the Secretary with respect to the 1989 crop of wheat.

a. *Acreage Reduction Program (ARP).* Section 107D(f) of the 1949 Act provides with respect to the 1989 crop of wheat, that if the Secretary estimates, not later than June 1, 1988, that the quantity of wheat on hand in the United States on the first day of the marketing year (June 1, 1989) for such crop (not including any quantity of wheat of such crop) will be more than 1 billion bushels, the Secretary shall provide for an ARP under which the acreage planted to wheat for harvest on a farm would be limited to the wheat CAB for the farm for the crop reduced by not less than 20 percent nor more than 30 percent.

If the quantity is estimated to be 1 billion bushels or less, the Secretary may provide for an ARP under which the acreage planted to wheat for harvest on a farm would be limited to the wheat CAB for the farm for the crop reduced by not more 20 percent.

If a wheat ARP is announced, such limitation shall be achieved by applying a uniform percentage reduction to the wheat CAB for the crop for each wheat-producing farm. Producers who knowingly produce wheat in excess of the permitted wheat acreage for the farm shall be ineligible for wheat loans, purchases, and payments with respect to wheat produced on that farm. An acreage on the farm shall be devoted to ACR determined by dividing: (1) The product obtained by multiplying the number of acres required to be withdrawn from the production of wheat times the number of acres planted to such commodity by (2) the number of acres authorized to be planted to such commodity under the ARP announced by the Secretary.

The quantity of wheat on hand on June 1, 1989, is currently estimated to be below 1 billion bushels. Based upon such estimates, the Secretary may announce an ARP of not more than 20 percent.

Comments are requested as to the percentage level, if any, at which an ARP should be implemented for the 1989 crop of wheat.

b. *Paid Land Diversion (PLD):* Section 107D(f)(5)(A) of the 1949 Act provides

that the Secretary may make land diversion payments to producers of wheat, whether or not an ARP, set-aside program, or marketing quotas for wheat are in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved ACR an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers.

The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

Any additional acreage reduction under a PLD would be at a producer's option.

The Secretary does not intend to implement a PLD for the 1989 crop of wheat, since stocks are expected to be below 1.0 billion bushels on June 1, 1989, the lowest level since 1981. Accordingly, comments are requested with respect to the Secretary's intention or whether a need exists for an optional PLD and, if implemented, the provisions of such program.

c. *Marketing Loans and Loan Deficiency Payments:* Section 107D(a)(5) of the 1949 Act provides that the Secretary may permit a producer to repay a loan at a level that is the lesser of: (1) The announced loan level or (2) the higher of: (i) 70 percent of the basic loan level or (ii) prevailing world market price for wheat, as determined by the Secretary.

If the Secretary permits a producer to repay a loan as described above, the Secretary shall prescribe by regulation: (1) A formula to define the prevailing world market price for wheat and (2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wheat.

Section 107D(b) provides that the Secretary may, for the 1989 crop of wheat, make payments available to producers who, although eligible to obtain a loan or purchase agreement, agree to forgo obtaining such loan or agreement in return for such payments. The payment shall be computed by multiplying: (1) The loan payment rate by (2) the quantity of wheat the producer is eligible to place under loan.

For purposes of this section, the quantity of wheat eligible to be placed under loan may not exceed the product obtained by multiplying: (1) The individual farm program acreage for the crop by (2) the farm program payment yield established for the farm. The loan payment rate shall be the amount by which the announced loan level exceeds the level at which a loan may be repaid.

The Secretary does not intend to implement a marketing loan and other related provisions for the 1989 crop of wheat since other price support authorities permit adjustments in support levels that generally make wheat competitive in domestic and international markets. Accordingly, comments are requested with respect to the Secretary's intentions or whether the Secretary should implement marketing loans and "loan deficiency" payments for the 1989 crop of wheat and the formula and methodology for determining the prevailing world market price to be used if marketing loans are implemented.

d. *Inventory Reduction Program:* Section 107D(g) of the 1949 Act provides that the Secretary may, for the 1989 crop of wheat, make payments available to producers who: (1) Agree to forgo obtaining a loan or purchase agreement; (2) agree to forgo receiving deficiency payments; and (3) do not plant wheat for harvest in excess of the CAB reduced by one-half of any acreage required to be diverted from production under the announced ARP. Such payments shall be made in the form of wheat owned by CCC. Payments under this program shall be determined in the same manner as established with respect to the marketing loan program.

Accordingly, the implementation of this program is considered to be dependent on whether a marketing loan program is also instituted.

Comments are requested on whether they should be implemented for the 1989 crop of wheat.

e. *Other Related Provisions.* A number of other determinations must be made in order to carry out the wheat loan and purchase programs such as: (1) Commodity eligibility; (2) premiums and discounts for grades, classes, and other qualities; and (3) such other provisions as may be necessary to carry out the programs.

Consideration will be given to any data, views and recommendations that may be received relating to these issues.

The following program determinations are proposed to be made by the Secretary with respect to the *common program provisions* that are applicable to the 1989 crops of wheat, feed grains, cotton, and rice:

a. *0/92 and 50/92 Provisions: ANPC and/or Cu on Underplanted Program Permitted Acreage.* Sections 103A(c)(1) (B) and (G) and 101A(c)(1) (B) and (G) of the 1949 Act provided that if an ARP is in effect for upland cotton or rice and the producers on a farm: (1) Devote a portion of the permitted commodity acreage of the farm equal to more than 8 percent of the permitted commodity acreage of the farm for the crop to CU or ANPC and (2) actually plant on the farm the respective program crop for harvest on an acreage equal to at least 50 percent of the permitted acreage for such crop, such portion of the permitted program commodity acreage of the farm (i.e., the CAB minus reduced diverted acreage), in excess of 8 percent of such acreage which is devoted to CU or ANPC crops shall be considered to be planted to such program commodity for the purpose of determining the individual farm program acreage and for the purpose of determining the acreage on the farm required to be devoted to CU and producers shall be eligible for payments on such acreage.

Sections 107D(c)(1) (C) and (K) and 105(c)(1) (B) and (I) of the 1949 Act provide with respect to wheat and feed grains, if an ARP is in effect and the producers devote a portion of the permitted acreage equal to more than 8 percent of the permitted or all of such permitted to CU or ANPC, such portion of the permitted acreage in excess of 8 percent devoted to CU or ANPC shall be considered to be planted and shall receive deficiency payments on such acreage at a per bushel rate not less than the projected deficiency payment rate for such crop. The Secretary is required to implement the 0/92 program in such a manner as to minimize the adverse effect on agribusiness taking into consideration the total amount of wheat and feed grain acreage that has or will be removed from production under other price support production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production shall be imposed in the case of a county which producers were eligible to receive disaster emergency loans.

For rice and upland cotton, if a State or local agency has imposed in an area of a State or county a quarantine on the planting of a program commodity for

harvest on farms in such area, the State Agricultural Stabilization and Conservation (ASC) committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that deficiency payments be made, without regard to the 50 percent planting requirement for rice and cotton, to producers in such area who were required to forgo the planting of the program commodity for harvest on acreage in order to alleviate or eliminate the condition requiring such quarantine. If the Secretary determines that such condition exists, the Secretary may make such payments to such producers. To be eligible for such payments such producers must devote such acreage to CU or ANPC.

The program commodity CAB and farm program payment yield of the farm shall not be reduced due to the fact that such portion (or all) of the permitted acreage of the farm was devoted to CU.

Any acreage considered to be planted to a program commodity may not also be designated as CU acreage for the purpose of fulfilling any provisions under any ARP, set-aside program or PLD requiring that the producers devote a specified acreage to CU.

The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to CU as a condition of qualifying for payments to be devoted to sweet sorghum or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or commodities for which no substantial domestic production or market exists but that could yield industrial raw materials that are being imported, or likely yield industrial raw materials that are being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), except the Secretary may permit such acreage to be devoted to such production only if the Secretary determines that:

(1) The production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

(2) The production is needed to provide an adequate supply of the commodity or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

Comments are requested as to whether the Secretary should permit the production of ANPC on acreage otherwise required to be devoted to CU under the "0/92" and "50/92" programs.

b. *Uses of Reduced and Diverted Acreage.* Sections 107D(f)(4), 105C(f)(4), 103A(f)(3), 103(h)(8)(A), and 101A(f)(3) of the 1949 Act provide that the regulations issued by the Secretary with respect to acreage required to be devoted to ACR under the acreage limitation and diversion programs shall assure protection of such acreage from weeds and wind and water erosion.

The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to sweet sorghum, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

In determining the amount of land to be devoted to ACR under an ARP for wheat and feed grains with respect to land that has been farmed utilizing summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

The Secretary proposes: (1) That the planting of alternate crops on acreage required to be devoted to ACR for the 1989 wheat, feed grains, cotton and rice ARP and diversion programs would not be permitted and (2) that nationally ACR on reduced or diverted acreage remain unchanged from those in effect for the 1988 crops, including summer fallow rules. The summer fallow rules provide that land, in an area determined to be an area in which summer fallow is a common practice is eligible for designation as ACR if it has been planted to a crop in at least 1 of the previous 2 years. For all other areas, land is eligible for designation as ACR it it has been planted to a crop in at least 2 of the previous 3 years.

Comments on the planting of alternate crops and ACR on the reduced or diverted acreage are requested.

c. *Haying and Grazing of "0/92" and "50/92" CU, ARP and PLD Acreage.* Sections 1070D(f)(4)(c); 103A(f)(3)(c); 105C(f)(4)(c) and 101A(f)(3)(c) provide with respect to wheat, feed grains, upland cotton and rice, except as otherwise noted below, that haying and grazing of acreage designated as ACR or CU for the purpose of meeting any requirements established under an ARP, PLD or "0/92" and "50/92" programs shall be permitted, except during any 5-consecutive-month period that is established by the State ASC committee for a State. Such 5-month period shall be established during the 7-month period beginning April 1 and ending October 31 of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing of such acreage. Haying and grazing shall not be permitted for any crop, if the Secretary determines that haying and grazing would have an adverse economic effect.

Comments are requested on whether haying and grazing of ARP, PLD and "0/92" and "50/92" CU acreages should be prohibited due to an adverse economic effect.

d. *Cross and Offsetting Compliance Requirements.* Sections 107D(n)(1–2), 105C(n)(1–2), 103A(n)(1–2), 103(h)(16), and 101A(n)(1–2) of the 1949 Act provide with respect to wheat, feed grains, upland cotton, ELS cotton and rice, that the Secretary may not require as a condition of eligibility for loans, purchases, or payments, compliance on a farm with the terms and conditions of any other commodity program (strict cross compliance). However, if an ARP is established for a crop of wheat, feed grains, upland cotton, ELS cotton or rice, the Secretary may require that, as a condition of eligibility of producers on a farm for loans, purchases, or payments for such crops, the acreage planted for harvest on the farm to such commodities, shall not exceed the CAB for that commodity. This requirement is referred to as limited cross compliance.

Sections 103A(n)(3) and 101A(n)(3), which are applicable to upland cotton and rice, provide that the Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments to comply with the terms and conditions of the upland cotton and rice programs with respect to any other farm operated by such producers (offsetting compliance). No similar requirements are applicable to wheat, feed grains, and ELS cotton. However, in accordance with sections 107D(i), 105C(i) and 103(h)(13) of the 1949 Act, the Secretary may issue regulations the Secretary determines necessary to carry out the wheat, feed grains, and ELS cotton programs. In some prior crop years, the Secretary has promulgated regulations providing for offsetting compliance requirements. If offsetting compliance is required, operators and owners of farms would

have to ensure that all of the farms in which they have an interest were either in compliance with the program requirements or the acreages of wheat, feed grains or ELS cotton planted to harvest on each of such farms did not exceed the wheat, feed grain or ELS cotton CAB established for such farms.

The Secretary intends to implement limited cross compliance requirements for the 1989 crops of wheat, feed grains, upland cotton, and rice and does not intend to impose offsetting compliance requirements for wheat, feed grains and ELS cotton.

Comments are requested concerning limited cross compliance for wheat, feed grains, upland cotton, and rice and offsetting compliance for wheat, feed grains and ELS cotton.

e. *Advance Recourse Loans.* Section 424 of the 1949 Act provides that the Secretary may make advance recourse loans to producers of those commodities for which nonrecourse loans are available if it is determined such a program is necessary to ensure that adequate operating credit is available to producers. These recourse loans may be made available under terms and conditions prescribed by the Secretary, except that the producer shall be required to obtain crop insurance for the crop as a condition of eligibility for a loan.

The Secretary does not intend to make advance recourse loans to producers for the 1989 crops. Accordingly, comments are requested with respect to the Secretary's intentions, or as to whether advance recourse loans should be offered for those commodities for which nonrecourse loans are available for the 1989 crops.

f. *Multiyear Set-Asides.* Section 1010 of the 1985 Act provides that the Secretary may enter into multiyear set-aside contracts for a period not to extend beyond the 1990 crops. Such contracts may be entered into only as a part of the programs in effect for wheat, feed grains, upland cotton, and rice and are available only to producers participating in one or more of such programs. Producers agreeing to a multiyear set-aside agreement would be required to devote the set-aside acreage to vegetative cover capable of maintaining itself through the contract period, to provide soil protection, water quality enhancement, wildlife protection, and natural beauty. Grazing of such acreage is prohibited except under major disaster conditions. Cost-share assistance must be provided for the establishment of vegetative cover.

The Secretary does not intend to implement a multiyear set-aside program. The acreage required to be devoted to ACR under the annual acreage limitation and, if authorized, PLD combined with acreage placed into the conservation reserve program are considered to be adequate for the purposes of supply management of program commodities.

Comments as to whether a multiyear set-aside program should be implemented are requested.

g. *Adjusting CAB's By Up To 10 Percent of FAB.* Section 503(b)(2) of the 1949 Act requires the establishment of a FAB for the 1989 crops of wheat, feed grains, upland cotton, and rice.

The FAB shall include: (1) The sum of the CAB's established for a farm and (2) the sum of (a) the average of the acreage planted to soybeans in 1986 through 1988 and (b) the average of the acreage on the farm devoted to CU in the normal course of farming operations in 1986 through 1988.

Section 505(a) of the 1949 Act provides that the Secretary may allow an upward adjustment of any CAB except such adjustment may not exceed 10 percent of the FAB. Any upward adjustment in a CAB established for a farm must be offset by an equivalent downward adjustment in one or more other CAB's established for such farm.

The Secretary proposes not to implement the option of adjusting CAB's by an amount not to exceed 10 percent of the FAB. Comments are requested on whether this option should be implemented.

Consideration will be given to any data, views and recommendations that may be received relating to these issues.

Authority: Secs. 107C, 107D, 107E, 107F, 109, and 110 of the Agricultural Act of 1949, as amended, 99 Stat. 1446, 1383, as amended, 1448, 91 Stat. 950, as amended, 951, as amended (7 U.S.C. 1445b–2, 1445b–3, 1445b–4, 1445b–5, 1445d and 1445e); secs. 4 and 5 of the CCC Charter Act, as amended, 62 Stat. 1070, 1072, as amended (15 U.S.C. 714b and 714c).

Signed at Washington, DC, on April 15, 1988.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88–8641 Filed 4–15–88; 1:52 pm]

BILLING CODE 3410-05-M

federal register

Tuesday
April 19, 1988

Part VI

Environmental Protection Agency

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Indiana; Final and Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3364-7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking.

SUMMARY: Indiana has submitted at various times portions of a lead State Implementation Plan (SIP), as required by section 110(a)(2)(H) of the Clean Air Act. On September 29, 1984 (49 FR 38297), USEPA proposed to approve the Indiana lead SIP.

Among the comments received was the assertion that certain sources engaged in lead recovery operations in the State were not included in the plan proposed in the September 29, 1984, **Federal Register.** USEPA re-examined the emission inventory and determined that the State had failed to include process lead fugitive emissions in estimating the lead emissions from certain sources. Since the publication of this proposed approval, Indiana submitted additional information to satisfy the major deficiencies identified by USEPA.

On April 10, 1987 (52 FR 11696), USEPA published a supplemental notice reproposing approval of the Indiana Lead Plan, including Rule 325 IAC 15–1 (promulgated by the State on January 27, 1987), which contains source specific provisions applicable to seven lead sources. Public comments were received in response to this reproposal. In today's notice, USEPA is responding to the public comments received, and except for one lead source, RSR Quemetco (Marion County), is approving Indiana's lead plan. Elsewhere in today's **Federal Register**, USEPA is proposing to approve Indiana's plan for Quemetco.

EFFECTIVE DATE: This final rulemaking becomes effective on May 19, 1988.

ADDRESSES: Copies of the Indiana lead plan, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Anne E. Tenner, at (312) 353–2205, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Office of Air Management, Indiana Department of Environmental Management (IDEM), 105 South Meridian Street, P.O. Box 6015, Indianapolis, Indiana 46206–6015.

A copy of today's revision to the Indiana SIP is available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 353–2205.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, USEPA promulgated National Ambient Air Quality Standards (NAAQS) for lead (43 FR 46258). Both primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air ($\mu g/m^3$), maximum arithmetic mean as averaged over a calendar quarter. Section 110(a)(1) of the Clean Air Act (Act) requires each State to submit a plan which provides for the attainment and maintenance of the primary and secondary NAAQS.

The general requirements for a SIP are outlined in section 110(a)(2) of the Act and USEPA regulations at 40 CFR Part 51. Specific requirements for developing a lead SIP are set forth in 40 CFR Part 51 Subpart G[1] and the manual entitled "Updated Information on Approval and Promulgation of Lead Implementation Plans," July 1983. These provisions require the submission of air quality data, emissions data, air quality modeling, control strategies, demonstrations that the NAAQS will be attained within the timeframe specified by the Act, and provisions for insuring maintenance of the NAAQS.

Under 40 CFR 51.117 (formerly 40 CFR 51.80), an attainment demonstration is required: (1) In the vicinity of the following sources which emit five or more tons of lead per year—primary lead smelters, secondary lead smelters, primary copper smelters, lead gasoline additive plants, and lead-acid storage battery manufacturing plants that produce 2,000 or more batteries per day, (2) in the vicinity of any other stationary source that emits 25 or more tons of lead per year, or (3) in any other area that has had measured lead concentrations in excess of the NAAQS since January 1, 1974. Any source which meets the requirements of either (1) or (2) above is considered a "point source" for the purposes of today's rulemaking.

[1] The lead SIP requirements were formerly codified in a separate subpart, Subpart E, but these were recodified and redistributed within Subpart C, Control Strategy, on November 7, 1986 (51 FR 40655). Many of the former Subpart E requirements specific to lead are now found in 40 CFR 51.117.

In addition, USEPA established lead monitoring and data handling requirements in a September 3, 1981, **Federal Register** notice (46 FR 44159), which was codified at 40 CFR Part 58. Indiana's responses to all of these requirements are addressed in today's notice.

II. Indiana's Lead SIP

In the December 29, 1983 (48 FR 57313), **Federal Register**, the USEPA proposed disapproval of draft regulations submitted by Indiana as part of its lead SIP for the following reasons: (a) Lack of a complete emission inventory; (b) failure to demonstrate attainment of the lead national ambient air quality standards (NAAQS) in certain areas; and (c) lack of an adequate amibient lead monitoring plan. In response to USEPA's proposed rulemaking, the State committed to correct the deficiencies listed in the notice and did submit a revised plan. On September 29, 1984 (49 FR 38297), USEPA proposed to approve the Indiana lead SIP. On January 2, 1985 (50 FR 123), USEPA extended the public comment period at the request of the State of Indiana. Public comments were received in response to the December 29, 1983, and September 29, 1984, proposals.

Among the comments received was the assertion that certain sources engaged in lead recovery operations in the State were not included in the plan proposed in the September 29, 1984, **Federal Register.** USEPA re-examined the emission inventory and determined that the State had failed to include process lead fugitive emissions in estimating the lead emissions from certain sources. On April 19, 1985, the State committed to resolve these deficiencies in its emission inventory, as well as additional problems which USEPA had recognized since its proposals.

Since the publication of the proposed approval and the extension of the public comment period, Indiana submitted additional information to satisfy the major deficiencies identified by USEPA. These were submitted to USEPA on July 8, 1985, July 12, 1985, December 5, 1986, December 16, 1986, and February 18, 1987. Included in these submittals was a revised regulation limiting lead emissions, 325 IAC 15–1. Additional technical information was submitted to USEPA on the following dates: June 9, 1987, July 13, 1987, July 17, 1987, and July 22, 1987.

On April 10, 1987 (51 FR 11696), USEPA reproposed approval of the Indiana Lead Plan, including Rule 325 IAC 15–1 (promulgated by the State on

Jaunary 27, 1987) which contains source specific provisions applicable to seven lead sources. Public comments were received in response to this reproposal as well.

USEPA will address in the following pages the major elements of Indiana's lead plan. This includes the monitoring requirements, mobile source analyses, and stationary source requirements. USEPA will also respond to public comments submitted, and approve, with the exception of RSR Quemetco (Marion County), the Indiana lead plan.

Rule 325 IAC 15-1—Lead Emission Limitations

On July 30, 1986, the Indiana Air Pollution Control Board (IAPCB) preliminarily adopted revised 325 IAC 15-1. On September 30, 1986, the IDEM submitted 325 IAC 15-1 to USEPA for parallel processing. On December 3, 1986, the IAPCB adopted revised 325 IAC 15-1, which was modified based on public comments. This revised rule was submitted to USEPA on December 16, 1986. It was promulgated for State purposes on January 27, 1987, and resubmitted to USEPA on February 18, 1987.

The rule is divided as follows:

325 IAC 15-1-1.	Applicability.
325 IAC 15-1-2(a).	Source-specific provisions for: Refined Metals, Indianapolis; Chrysler Corporation Foundry, Indianapolis; Delco Remy Division of General Motors Corporation, Muncie; Oxide and Chemical Corporation, Brazil; U.S.S. Lead Refinery, East Chicago; and Hammond Lead Products, Inc. (HLP-Halox Division and Halstab Division), Hammond.
325 IAC 15-1-2(b).	Operation and Maintenance Programs.
325 IAC 15-1-3.	Control of Fugitive Lead Dust.
325 IAC 15-1-4	Methods to Determine Compliance.

Rule 325 IAC 15-1 applies only to those sources specifically listed in 325 IAC 15-1-2. Unless otherwise noted in the rule, compliance is required immediately. The site-specific emission limits and other requirements for these sources contained in 325 IAC 15-1-2 are discussed below. All of the subject sources are required to submit operation and maintenance programs designed to prevent deterioration of control equipment performance to the IDEM by June 1, 1987. These will be incorporated into individual operating permits. USEPA requested and the Indiana Office of Air Management (IOAM) agreed to submit these operation and maintenance programs to USEPA for comment prior to the State's approval of them and for information after the State adopts them.

325 IAC 15-1-3 requires all sources listed in 325 IAC 15-1-2 to comply with the following fugitive dust requirements:

(1) No source shall create or maintain outdoor storage of bulk materials containing more than 1.0% lead by weight of less than 200 mesh size particles.

(2) All materials containing more than 1.0% lead by weight of less than 200 mesh size particles shall be transported in closed containers or by enclosed conveying systems.

(3) Control programs shall be designed to minimize emissions of lead from all fugitive emission points. The programs shall include good housekeeping practices for the clean-up of spills and for minimizing emissions from loading and unloading areas as applicable. The program shall be submitted to the IOAM on or before June 1, 1987. The State shall submit these fugitive lead control plans to USEPA for approval as SIP revisions. Indiana has committed to USEPA that it intends to submit these plans to USEPA as revisions to the Indiana SIP by December 31, 1987.

325 IAC 15-1-4(a) establishes a test method (USEPA Reference Method 12, Appendix A of 40 CFR Part 60 and 325 IAC 3-2, Source Sampling Procedures) for determining compliance with the emission limits in 325 IAC 15-1-2. 325 IAC 15-1-4(b) requires sources with restrictions on their hours of operation to maintain logs indicating the actual hours of operation and submit quarterly summaries of these logs to the IDEM.

Action

USEPA is approving 325 IAC 15-1.

Indiana Lead Sources

The Indiana plan addresses areas of the State where there are point sources, under 40 CFR 51.117, and other sources which have significant lead emissions which could potentially cause violations of the lead NAAQS. These include both mobile and stationary source related sites.

A. Mobile Source Related Sites

1. Lake County—The Frank Borman Expressway (I-80/94) east of Cline Avenue (Indiana 912) to a point east of Indianapolis Boulevard (Indiana 52/US-20).

2. Clark County—Jeffersonville monitoring site at the junction of I-65/US-62.

3. Floyd County—See discussion in *Other Sites* below.

The Frank Borman Expressway was included as a study area due to the high volume of vehicular traffic. The geographic area was considered to be dominated by lead emissions from mobile sources. Indiana submitted an analysis for this site to demonstrate that the area is attaining the NAAQS. The analysis demonstrated that using the highest valid ambient quarterly lead level of 0.80 $\mu g/m^3$ (third quarter, 1982) the projected future (i.e., in three years ambient lead concentration is calculated to be 0.78 $\mu g/m^3$. (Note, actual monitored data for 1985 shows a maximum quarterly average concentration of 0.29 $\mu g/m^3$.

This demonstrates that the lead standard was attained in the Lake County study area in 1982 and will be maintained through continuation of the Federal program to phase down lead in leaded gasoline. Therefore, USEPA is approving this portion of the plan.

USEPA has also identified the Jeffersonville monitor in Clarke County at the junction of I-65 and US-62 as being a mobile source related site. There are no significant lead point sources in the vicinity of this monitor. An analysis was conducted by a contractor for USEPA. The analysis demonstrated that using the highest recorded ambient quarterly average of 1.74 $\mu g/m^3$ (fourth quarter, 1978), the projected future quarterly average is 0.67 $\mu g/m^3$. (Note, actual monitored data for 1985 shows a maximum quarterly average concentration of 0.20 $\mu g/m^3$.)

Therefore, the recent ambient air quality data verify that the standard for lead has been attained at the Jeffersonville lead monitor since 1979. Continued attainment is expected through the Federal program to phase-down lead in leaded gasoline. As a result, USEPA is approving this portion of the Plan.

B. Stationary Source Related Sites

Title 40 CFR 51.117 requires that a lead plan must address all areas in the vicinity of "point sources" of lead and any other areas that have had measured lead air concentrations in excess of the NAAQS since January 1974. The State identified the following as its lead point sources:

1. *Refined Metals, Inc.*, a secondary lead smelter located in Indianapolis (Marion County).

2. *U.S.S. Lead Refinery*, a secondary lead smelter in East Chicago (Lake County).

3. *Oxide and Chemical*, a lead oxide manufacturing plant located in Brazil (Clay County).

4. *G.M. Delco Remy*, a lead-acid storage battery manufacturing plant located in Muncie (Delaware County).

5. *Chrysler Corporation Foundry*, a grey iron foundry located in Indianapolis (Marion County).

6. *Hammond Lead Products*, lead oxide manufacturing plant located in Hammond (Lake County).

In addition, USEPA has identified RSR Quemetco, a secondary lead smelter located in Indianapolis (Marion County), as a possible lead point source. Each of these seven sources is addressed below:

Refined Metals. Regulation 325 IAC 15–1 requires Refined Metals to:

a. Install and operate hooding systems by June 1, 1987, for the blast furnace's skip hoist and charging area, the blast furnace's slag and tapping area, the casting area, the refinery kettles, and the lead dust furnace charging area. The hooding systems required for the operations listed above shall at least have a minimum of 90% capture efficiency. The emissions shall be vented to a control device with 99.5% control efficiency.

b. Install and operate enclosed screw conveyors by June 1, 1987, to transport lead flue dust to the lead dust furnace.

c. Comply with the emission limits for its M–1 baghouse stack, M–2 baghouse stack, and blast furnace fugitive emissions by June 1, 1987.

d. Limit the hours of operations for those sources whose emissions are specifically restricted by limits in 325 IAC 15–1–2(a)(1) to not more than 2,080 hours/quarter.

Modeled Attainment Demonstration. Indiana performed a computer dispersion modeling analysis consistent with USEPA Modeling Guidelines of the area surrounding Refined Metals. The maximum predicted quarterly concentration was 1.34 $\mu g/m^3$ for the third quarter of 1980 at a receptor located along the fenceline approximately 100 meters (m) northeast of the emission sources. Adding a 0.15 $\mu g/m^3$ background value [2] results in a total predicted concentration of 1.49 $\mu g/m^3$, thus demonstrating attainment of the lead NAAQS in the vicinity of Refined Metals. Additional discussion of this analysis may be found in the Technical Support Documents located at Region V.

Action. The proposed control measures, the implementation of fugitive dust control procedures, and the emission limits were evaluated by USEPA and were determined to meet the requirements of the Clean Air Act. However, USEPA noted that Indiana had not submitted its methodology to determine compliance with its 90% capture efficiency requirement for hooding systems. On January 12, 1988, Indiana committed to investigate this problem and will incorporate within the Refined Metals' operating permits specific criteria, i.e., process and control equipment design and operating parameters, for determining compliance with the capture efficiency provisions. These will be submitted to USEPA. USEPA is approving the Indiana lead Plan for Refined Metals, Inc. based, in part, on the January 12, 1988, commitment letter.

2. *U.S.S. Lead Refinery.* U.S.S. Lead is not currently in operation. Should U.S.S. Lead seek to operate its facility in East Chicago in the future, 325 IAC 15–1 limits the operating hours for its blast furnace stack, blast furnace fugitive emissions, refining kettles fugitive emissions, casting fugitive emissions, and the reverbatory furnace fugitive emissions each to 334 hours per quarter. In addition, U.S.S. Lead is required to meet the lead emission limits in Indiana Rule 325 IAC 15–1–2(a)(5) for these same sources. Emissions from the reverbatory furnace stack were neither included in Indiana's modeling demonstration nor in its rule. Therefore, USEPA proposed for comment that the reverbatory furnace stack had a 0.000 lbs/hour limit in Indiana's plan. Indiana did not comment negatively on this element in the proposal, and, thus, USEPA is approving a 0.000 lbs/hour limit for the reverbatory furnace stack. U.S.S. Lead is also required by Indiana's plan to implement the fugitive dust control procedures specified in 325 IAC 15–1–3(a).

Modeled Attainment Demonstration. The maximum predicted quarterly concentration was 1.35 $\mu g/m^3$ during the first quarter of 1978 at a receptor located along the fenceline approximately 130 m east of the emission sources. Adding the 0.15 $\mu g/m^3$ background value results in a total concentration of 1.50 $\mu g/m^3$, thus demonstrating attainment of the lead NAAQS in the vicinity of U.S.S. Lead. Additional discussion may be found in the Technical Support Documents located at Region V.

Action. The proposed control measures, the implementation of the fugitive dust control procedures specified in Indiana rule 325 IAC 15–1–3(a), and the emission limits were evaluated by USEPA and were determined to meet the requirements of the Clean Air Act. Therefore, USEPA is approving the Indiana Lead Plan for U.S.S. Lead.

3. *Oxide and Chemical Corporation.* Rule 325 IAC 15–1 requires Oxide and Chemical to limit its operation of the Franklin reactor to no more than 670 hours per quarter and to comply with lead emission limits specified in 325 IAC 15–1–2(a)(4) for Barton Reactors Nos. 1, 2, 3, and 4; Rake Furnace Kiln #2; and the Franklin Reactor. The facility is also required to implement the fugitive lead control program required by 325 IAC 15–1–3(a).

Modeled Attainment Demonstration. The maximum predicted quarterly concentration was 1.34 $\mu g/m^3$ for the first quarter of 1976 at a receptor located along the fenceline approximately 100 m from the emission sources. Adding a 0.15 $\mu g/m^3$ background value results in a total concentration of 1.49 $\mu g/m^3$, thus demonstrating attainment of the lead NAAQS in the vicinity of Oxide and Chemical. Additional discussion may be found in the Technical Support Documents located at Region V.

Action. The control measures, the implementation of the fugitive dust control procedures, and the emission limits were evaluated by USEPA and were determined to meet the requirements of the Clean Air Act. Therefore, USEPA is approving the Indiana lead Plan for Oxide and Chemical.

4. *Hammond Lead Products, Inc.* Hammond Lead Products has two facilities in Hammond, separated by several miles. The newer facility is the Halstab Division, regulated by 325 IAC 15–1–2(a)(7). The older facility consists of an old Halstab Plant, since closed, and the HLP-Halox Division, regulated by 325 IAC 15–1–2(a)(6).

Halstab Plant. Control measures in 325 IAC 15–1–2 for the new Halstab Plant include implementation of operation and maintenance procedures for the air pollution control devices, limiting the hours of operation for sources whose emissions are vented through certain named stacks (S–1, S–9, S–10, S–11, S–12, S–13, S–14, S–15, and S–16), and setting hourly emission limits for these stacks and others.

Modeled Attainment Demonstration (Halstab Plant). The maximum adjusted

[2] A 0.15 $\mu g/m^3$ background was consistently used in Indiana's lead plan. This background level was suggested in three documents developed by USEPA contractors. They are: (1) "Development of an Example Control Strategy for Lead" (draft), January 23, 1979; (2) "Technical Support Document for the Vehicular Lead Analysis for the State of Indiana (Hammond Area)", October 1979; and (3) "Technical Support Document for the Vehicular Lead Analysis for the State of Indiana (Jeffersonville Area)", October 1979. It was also used in the adjoining State of Kentucky lead plan. USEPA and Indiana have evaluated this suggested background level and find it acceptable.

quarterly predicted concentration was 1.13 $\mu g/m^3$ for the third quarter of 1978, at a receptor located along the fenceline approximately 200 m north of the emission sources. Adding a 0.15 $\mu g/m^3$ background value results in a total concentration of 1.28 $\mu g/m^3$, thus demonstrating attainment of the lead NAAQS in the vicinity of Hammond Lead Halstab Plant.

HLP-Halox Plant. The Plan requires the Halox Plant to achieve compliance with the lead emission limits in 325 IAC 15–1–2(a)(6) by June 1, 1987. In addition, Hammond Lead is required to further investigate fugitive emissions (see discussion below).

Modeled Attainment Demonstration (Halox Plant). The maximum adjusted quarterly predicted concentration was 1.07 $\mu g/m^3$ for the third quarter of 1978, at a receptor located along the fenceline approximately 200 m north of the emission sources. Adding a 0.15 $\mu g/m^3$ background value results in a total concentration of 1.22 $\mu g/m^3$, thus predicting attainment of the lead NAAQS in the vicinity of Hammond Lead HLP-Halox Plant. Additional discussion may be found in the Technical Support Documents located at Region V.

Monitored Violations—HLP-Halox Plant. Notwithstanding the modeled attainment demonstration, the ambient lead monitors near this plant continued to measure violations of the lead standard, despite some of the measures previously taken by Hammond Lead to reduce the lead emissions from the Halox plant. USEPA notified Indiana of this deficiency and requested the State to investigate the apparent inconsistency between the monitoring and modeling data.

The State was unable to determine if the discrepancy was due to all emission points not yet being in compliance with the regulation (compliance was not required until June 1, 1987), modeling under-predictions, or an incomplete emission inventory used in the modeling. To resolve this issue, the State, in 325 IAC 15–1–2(a)(B), (C), and (D), required Hammond Lead to investigate this discrepancy and included in the rule a schedule for implementing the study and adopting additional measures, if needed, to assure attainment and maintenance of the lead NAAQS.

More specifically, the rule requires Hammond Lead to investigate and submit an interim report to IDEM on or before June 30, 1987, on the nature, cause, and magnitude of fugitive emissions which escape through its 25 roof ventilators and from other processes and exhaust systems. By December 31, 1987, Hammond Lead must submit a revised and complete emission inventory of its lead sources, a final report on the result of the investigations referenced above, and a list of additional control strategies under consideration. By June 30, 1988, Hammond Lead must submit to IDEM revised lead emission limits, if necessary, and control measures to achieve compliance with these limits. IDEM will recommend a revised control strategy to the IAPCB for adoption. Hammond Lead Products will be required to comply with the revised control strategy adopted by the Board as expeditiously as practicable, but no later than December 31, 1989.

On June 9, 1987, Indiana sent to USEPA a letter from Hammond Lead Products to the State dated June 2, 1987, summarizing Hammond Lead Products' progress in the investigatory work and, as a result of the initial study, a schedule of activities relating to proposed control measures. Hammond Lead Products also indicated that, based on the result of the initial study, all the permitted lead sources are in compliance with the lead limits required by Rule 325 IAC 15–1. Hammond Lead Products concluded that the monitored violations are attributable to certain uncontrolled process fugitive emissions.

As a result, Hammond Lead Products proposed to identify the process fugitive emissions that may have potential impact on the monitors. In order to accomplish this task, Hammond Lead Products committed to pursue the following schedule:

June 30, 1987—Install special purpose monitors in the areas above the eaves and below the roof of the old plant building (Barton area, mill area, furnace area, and the front end). The purpose is to determine the level of fugitive emissions that would escape from the roof ventilators.

August 15, 1987—Install new fabric filters for the mill area. The purpose is to recycle the dust captured by the filters and to maintain a higher negative pressure system in the mill area.

September 1, 1987—Replace the existing fabric filter of the No. 1 silicate operation with a filter of larger capacity.

September 30, 1987—Complete process and ventilation drawings for the entire plant which is necessary for the engineering modifications.

In addition, Indiana committed to submit any revised control strategy developed for Hammond Lead Products as a SIP revision on or before December 31, 1988.

Action. The control limitations, fugitive dust control measures, operating restrictions, attainment plan, and further studies for the Hammond Lead Product's Halox and Halstab Plants were evaluated by USEPA and were determined generally to meet the requirements of the Clean Air Act. USEPA concurs with the State on the need for further study and is including the study in its rulemaking on the SIP.

USEPA is approving the Indiana lead plan for Hammond Lead-Halstab and Hammond Lead-Halox on the stipulation that Hammond Lead and the State adhere to the requirements of 325 IAC 15–1–2(a)(6)(B) through (D).

5. *GM Delco Remy.* Rule 325 IAC 15–1–2(a)(3) requires installation of ductwork to vent the emissions from the three vacuum cleaning lines through the Central Tunnel Systems' control devices and stacks by June 1, 1987. Further, 325 IAC 15–1–2(a)(3) contains enforceable emission limits for the lead sources at Delco Remy and 325 IAC 15–1–3 specifies procedures for controlling fugitive lead dust at the facility.

Modeled Attainment Demonstration. The maximum predicted quarterly concentration was 0.97 $\mu g/m^3$ for the third quarter of 1980, at a receptor located along the fenceline approximately 120 m from the emission sources. Adding a 0.15 $\mu g/m^3$ background value results in a total concentration of 1.12 $\mu g/m^3$, thus demonstrating attainment of the lead NAAQS in the vicinity of Delco Remy. Additional discussion may be found in the Technical Support Documents located at Region V.

Action. The control measures were evaluated by USEPA and were determined to meet the requirements of the Clean Air Act. Therefore, USEPA is approving the Indiana lead SIP for GM Delco Remy.

6. *Chrysler Corporation.* The only lead emissions at Chrysler are from the cupola. The control strategy restricts the cupola stack to a 0.55 lbs/hr limit and the fugitive emissions to 1.894 lbs/hr. Control measures are in place, and the source must currently be in compliance with both emission limitations.

Modeled Attainment Demonstration. The maximum adjusted predicted quarterly concentration was 1.22 $\mu g/m^3$ for the third quarter of 1980, at a receptor located approximately 170 m northeast of the emission sources. Adding a 0.15 $\mu g/m^3$ background value results in a total predicted concentration of 1.37 $\mu g/m^3$, thus demonstrating attainment of the lead NAAQS in the vicinity of Chrysler.

Action. The emission limitations were evaluated by USEPA and determined to meet the requirements of the Clean Air Act. Therefore, USEPA is approving the Indiana lead SIP for Chrysler Corporation.

7. *RSR Quemetco.* RSR Quemetco is a secondary lead smelter in Indianapolis. USEPA initially identified RSR Quemetco as a possible point source; i.e., greater than five tons/year emissions. On April 13, 1984, and May 4, 1984, the State confirmed that the blast furnace at RSR Quemetco was permanently shut down and has been deleted from the emission inventory. On May 4, 1984, the State submitted a revised emission inventory for RSR Quemetco which includes all stack and process fugitive lead emissions. This inventory shows that RSR Quemetco currently emits less than five tons/year of lead, because of the recent installation of additional controls. The revised emissions inventory includes emissions from two newly installed capture hoods on the casting operations and the reverberatory furnace tapping area, which are vented to a baghouse. Additional information on these controls was contained in the May 4, 1984, submittal.

These controls also limit total suspended particulate (TSP) emissions at RSR Quemetco. However, these controls limit TSP emissions to a greater extent than is necessary to meet the present particulate matter SIP requirements. Thus, there are no federal requirements to keep these controls operating at their current calculated efficiency.

Section 51.117 of Title 40 requires a demonstration of attainment in the vicinity of secondary lead smelters which emit five tons or more of lead per year. Prior to the installation of the capture hoods discussed above, which are not current federal requirments, emission estimates for RSR Quemetco exceeded five tons/year. As a result, a demonstration of attainment is still required to ensure that federally enforceable control measures are adequate to protect the lead NAAQS.

On May 4, 1984, the State of Indiana submitted a dispersion modeling analysis based on the Climatological Dispersion Model (CDM). Although the modeling analysis predicted that the lead emissions from RSR Quemetco will not result in a violation or interfere with attainment of the lead NAAQS, USEPA can no longer accept this outdated analysis, which did not use the current reference model, Industrial Source Complex Long Term (ISCLT), and did not use sufficient meteorological data. Thus, a modeling analysis consistent with USEPA modeling guidelines was still required.

The State committed to review its lead source inventory to ensure that RSR Quemetco, and other smaller sources of lead, do not have the potential to violate the lead NAAQS. It further committed to modify 325 IAC 15–1, if necessary, to assure that lead emissions from these smaller sources do not threaten the lead NAAQS and that their emissions do not increase above five tons/year.

On February 18, 1987, the State of Indiana determined that problems exist in Rule 325 IAC 15–1, with respect to the enforceability of the emission limits for RSR Quemetco and the fugitive dust control plans for the other sources emitting less than five tons/year of lead. On July 17, 1987, and September 23, 1987, the State submitted to USEPA a draft rule amending Rule 325 IAC 15–1.

The State requested that the amended rule be "parallel-processed" for approval as a SIP revision. The amendments include: (1) Site specific emission limits, fugitive dust control plans, and an operation and maintenance (O&M) program for RSR Quemetco and (2) fugitive dust control plan requirements for Exide Corporation, C & D Batteries, and General Battery Corporation. On February 3, 1988, the State submitted the amended rule as a SIP revision after it had been State promulgated. This amended rule provides an enforceable mechanism to prevent RSR Quemetco from increasing its current lead emissions. (In a January 12, 1988, letter, Indiana committed to clarify the capture efficiency requirements in the rule by amending RSR Quemetco's operating permits and to submit these permits to USEPA.)

In today's notice, USEPA is not taking final action on the RSR Quemetco portion of the Indiana lead plan. Instead, elsewhere in today's **Federal Register**, USEPA is proposing approval of the amendments to the Indiana lead SIP, including emission limits for RSR Quemetco, if the State submits a State promulgated copy of the amendments as a revision to the lead SIP by December 31, 1987. Additionally, the State has submitted during the public comment period an attainment demonstration for RSR Quemetco consistent with USEPA modeling guidelines. USEPA is proposing approval of this as well.

8. *Other Sites—New Albany-Floyd County.* USEPA reviewed all of its ambient monitoring data collected since 1974 and discovered that a violation of the standard occurred during the fourth quarter of 1978 at the site in New Albany in Floyd County. This area was not included in any of the mobile source or stationary source related sites listed above because of insufficient emissions data.

USEPA proposed disapproval of the New Albany plan in Floyd County in the December 29, 1983 (48 FR 57318), **Federal Register**, because the State had failed to submit information addressing this previously measured violation or to make a demonstration that the current plan would assure attainment and maintenance of the lead standard in Floyd County.

Section 51.117 of Title 40 requires that an analysis must be made in the vicinity of a monitor that has recorded a lead violation since 1974. During the fourth quarter of 1978, a concentration of 1.78 $\mu g/m^3$ was measured at the New Albany monitor, which was determined by the State to be caused by mobile source emissions. These emissions have subsequently been reduced due to the Federal phaseout of lead in gasoline. The State's submittal of April 13, 1984, contained an analysis using a 1978 base year and a 1984 projection year. This analysis demonstrated attainment of the lead NAAQS well before the projection year, and is consistent with the general rollback procedures for the lead SIPs. Therefore, it is considered to be acceptable.

The maximum measured quarterly average during the most recent year (1981) of available data (0.52 $\mu g/m^3$) is consistent with the projected maximum quarterly average of 0.52 $\mu g/m^3$. The monitor was discontinued after that year because the readings were so low.

Action. USEPA is approving the lead SIP for the New Albany area.

Gary—Lake County (U.S. Steel). The emission inventory indicates that the current lead emissions from U.S. Steel in Gary are less than 25 tons/year. 40 CFR 51.117 does not require a demonstration of attainment in such an area. However, to assure that the SIP is adequate to maintain the standard, USEPA required the State to install and operate an ambient lead monitor near this source. The State began to analyze for lead at the Gary Federal Building site in 1983 (the closest State-operated monitor at that time to U.S. Steel). The maximum measured quarterly average to date is 0.83 $\mu g/m^3$ (1985, 3rd quarter). This concentration is consistent with the State's assertion that the plan is adequate to protect the lead NAAQS in the Gary area.

Action. USEPA is approving the Indiana lead SIP for the U.S. Steel area in Gary.

Burns Harbor—Porter County (Bethlehem Steel). On November 21,

1983, the State committed to install a monitor to measure the impact of the lead emissions from Bethlehem Steel. The emission inventory indicates that the current lead emissions from Bethlehem Steel in Porter County are less than 25 tons/year. 40 CFR 51.117 does not require a demonstration of attainment in such an area. However, to assure that the SIP is adequate to maintain the NAAQS, USEPA required the State to install and operate an ambient lead monitor near this source.

On May 4, 1984, Indiana stated that Bethlehem Steel began to monitor for lead in May 1983, at two sites. The maximum measured quarterly average to date is 0.11 $\mu g/m^3$ (1984, 1st quarter). Because the measured values over a 3-year period were so low, the State discontinued (with USEPA approval) analysis of lead at these two sites in 1986.

Action. USEPA is approving the Indiana lead SIP for the Bethlehem Steel area.

East Chicago—Lake County (Inland Steel and LTV Steel). The emission inventory indicates that the current lead emissions from Inland Steel and LTV Steel in Lake County are less than 25 tons/year each. Although the emissions levels do not trigger the need for an attainment demonstration, pursuant to 40 CFR 51.117, the existence of measured violations in East Chicago since January 1, 1974, does necessitate an attainment demonstration. Futhermore, USEPA required the State to submit all available lead data for this area and to ensure that it is quality assured and representative.

Attainment Demonstration. The State's modeling analysis for the East Chicago area around Inland Steel and LTV Steel was submitted on April 13, 1984, and May 4, 1984. It predicts attainment in the Inland Steel/LTV Steel area. USEPA's review of this modeling is contained in a memorandum entitled "Indiana Lead SIP", dated June 15, 1984. USEPA finds that this modeling satisfies the requirements of 40 CFR 51.117 for a demonstration of attainment.

Monitoring Program. In the December 16, 1986, submittal, Indiana provided all lead data for the period 1983–1986 (2nd quarter) for the three monitors near Inland Steel and LTV Steel. All the measured concentrations were less than half of the NAAQS during this period.

Action. USEPA is approving the Indiana lead SIP for the Inland Steel/LTV Steel area in East Chicago.

Bluffton—Wells County (Corning Glass). The Bluffton area in the vicinity of the Corning Glass Company was identified as an area impacted by a major lead source. On November 21, 1983, however, the State indicated that this source was permanently shut down and has been taken out of the State's emission inventory. Further, Indiana indicated that if the source were to resume operation in the future, it would be subject to New Source Review. Consequently, no control strategy is necessary for this source. USEPA is approving this portion of the Plan.

Public Comments

USEPA is addressing public comments received in response to the proposals in the April 10, 1987 (51 FR 969), September 29, 1984 (49 FR 38297), and December 29, 1983 (48 FR 57313). Comments and responses to the April 10, 1987, proposed approval are:

(1) Hammond Lead Products—Hammond

Hammond Lead Products questioned the USEPA's authority to require a more detailed schedule of the Hammond lead study that would include increments of progress. Rationales for its objection are that:

(a) *Comment:* Enforceable dates of progress cannot be adopted without conducting further state rulemaking proceedings.

USEPA Response: A detailed schedule for the Hammond Lead Products study is necessary to insure that progress is being made toward completion of the required study. Since the "increment of progress" requirement of the Hammond Lead Plan does not in any way change the schedule in 325 IAC 15–2(a)(6), further State rulemaking proceedings are not necessary.

(b) *Comment:* On April 10, 1987 (52 FR 11696), USEPA stated that the control strategy for the two Hammond Lead facilities that are contained in the Indiana lead SIP met the requirement of the Clean Air Act. Therefore, the lack of a detailed schedule is insufficient to justify disapproval by USEPA of the lead plan for Hammond Lead Products.

USEPA Response: While USEPA finds the State's modeled demonstration of attainment of the lead NAAQS acceptable, USEPA believes that the State requirement to conduct further studies is also appropriate. Therefore, USEPA will include the further studies requirement in the SIP to ensure that these studies are carried out. (Section 45.2.3—Updated Information on Approval and Promulgation of the Lead Implementation Plan, dated July 1983.)

(c) *Comment:* At no time did USEPA object to the compliance schedule offered to Hammond Lead Products in the Indiana lead rule.

USEPA Response: USEPA did not object that the Indiana compliance schedule did not include increments of progress of Hammond Lead Products because the specific requirements are dependent on the findings and results of the first step of the study.

(d) *Comments:* Hammond Lead Products requested clarification concerning the possible action by USEPA if the State fails to submit an "interim and an enforceable date of progress" by June 9, 1987.

USEPA Response: If the State has not met this requirement, USEPA would have had to determine if the SIP were approvable. However, on June 2, 1987, Hammond Lead Products sent a letter to the State outlining the general strategy of the investigatory work and increments of progress of the tasks initiated. This action taken by Hammond Lead Products, therefore, eliminates this specific deficiency identified and makes moot Hammond Lead's comment.

(e) *Comment:* Hammond Lead Products requested that it participate in determining the site of the new lead monitor near the Halstab plant.

USEPA Response: USEPA has no objection to the above request. Hammond Lead Products should contact the State concerning this matter.

2. RSR Quemetco—Indianapolis

(a) *Comment:* RSR Quemetco maintained that: (i) Its facility is not a lead point source, (ii) there have been no monitored violations of the lead standard near this source, and (iii) the attainment demonstration conducted by the State showed compliance with the lead NAAQS. Therefore, the source does not believe that there is any basis to restrict the level of lead emissions from its facility.

USEPA Response: Although RSR Quemetco does not currently emit over five tons per year of lead, its current allowable emissions (based on control of TSP) are greater then five tons. Further, the attainment demonstration for RSR Quemetco, based on the facility's current actual lead emission levels, predicts a peak quarterly average concentration of 1.50 $\mu g/m^3$ lead, which is equal to the concentration level of the lead NAAQS.

Any increase in lead emissions at RSR Quemetco from the present level would likely violate the ambient lead standard. Limiting the lead emissions from RSR Quemetco at the current level will ensure that the lead NAAQS is protected and also provide an enforceable emission limit for this facility.

(b) *Comment:* RSR Quemetco objected to the preliminary adoption of the

revised rule 325 IAC 15–1 because the State and USEPA did not provide enough time or opportunity to participate in the process.

USREPA Reponse: With regard to the State rulemaking process, it is the State's reponsibility to advise concerned parties of its proposed rulemaking and follow both correct State rulemaking procedures and Federal SIP submission procedures. The time required for the notification process is dependent on the Federal requirements of 40 CFR 51.102, which requires 30-day notice prior to public hearing, and on the requirements of Indiana. In the case of the RSR Quemetco amendments to 325 IAC 15–1, the IAPCB notified the public of its public hearing on May 19–20, 1987 (RSR Quemetco was notified by the IOAM on May 14, 1987, of the public hearing), held a public hearing on June 24, 1987, and adopted the amendments on September 2, 1987. This meets both State and Federal requirements.

Additionally, elsewhere, in today's notice USEPA is proposing the February 3, 1988, rule, as adopted by the State, and another public comment period is being provided to give all interested parties opportunities to comment on the amended rule. Based on the merits of the rule and the comments received, USEPA will rulemake on the revised rule accordingly.

3. Indiana Department of Environmental Management (IDEM)

(a) *Comment:* The State of Indiana requested that USEPA review the guidance material for the fugitive dust program and provide comments to the State.

USEPA Response: The fugitive dust control program guidance is currently being reviewed. Comments will be sent to the State upon completion of review.

The following comments were submitted in response to USEPA's September 29, 1984, proposed approval.

1. Inland Steel, East Chicago

(a) *Comment:* Inland Steel requested USEPA to grant a 30-day extension to the public comment period to the September 29, 1984, proposal.

USEPA Response: USEPA granted an extension of the public comment period until January 15, 1985, on January 2, 1985 (50 FR 123).

(b) *Comment:* Inland Steel stated that the requirement for either annual or bi-annual stack testing for lead sources whose processes are unchanging should be eliminated.

USEPA Response: USEPA required the State to submit an acceptable compliance methodology. Although the State originally considered requiring annual or bi-annual stack tests, its plan now contains a stack test compliance method without a required frequency. USEPA finds this acceptable and is approving this element in Indiana's plan.

2. RSR Quemetco, Indianapolis

Comment: RSR Quemetco contended that other companies engaged in the lead recovery business were not listed in the September 29, 1984, reproposal.

USEPA Response: USEPA requested the State of Indiana to re-examine its emission inventory. In response to this request, Indiana reviewed and revised its emission inventory. These changes resulted in USEPA reproposing those portions of the Indiana lead plan on April 10, 1987, which included the revised inventory.

3. Hammond Lead Products

Comment: Hammond Lead Products disagreed with the lead emission limits for its Hammond and Halstab Plants. Hammond Lead Products recommended development of new emission limits to comply with the lead NAAQS.

USEPA Response: The CAA requires that the State submit an adequate plan for sources such as Hammond Lead Products (i.e., emission limits, compliance schedules, required technical support, etc.) sufficient to protect the lead NAAQS, but does not require any specified emission limits. These are left up to the discretion of the State. It is USEPA's understanding that, subsequent to Hammond Lead's comment, Indiana worked further with Hammond Lead to develop emission limits which are more acceptable to Hammond Lead. These are contained in Indiana's current plan.

4. U.S.S. Lead Refinery, Inc.—East Chicago

Comment: U.S.S. Lead requested an extension of the public comment period of the reproposed Indiana lead SIP.

USEPA Response: USEPA reproposed Indiana's Lead Plan on April 10, 1987, which allowed U.S.S. Lead to further comment.

USEPA received further additional comments in response to the December 20, 1983, (48 FR 57318) proposed rulemaking of the Indiana lead SIP. Following are the comments along with USEPA's response to these comments.

1. Bethlehem Steel—Burns Harbor

Comment: Bethlehem Steel's comments addressed USEPA's requirement to install and operate ambient lead monitors in the vicinity of the Burns Harbor plant. Bethlehem contended that this requirement was unnecessary and unwarranted because the State was not required to make an attainment demonstration in this area.

USEPA Response: Under 40 CFR Part 58, Appendix D, section 2.7, monitoring of ambient lead levels is required even near sources of less than "point source" size, i.e., 25 tons of lead per year for steel mills, if lead levels are expected to be of significant concern, such as in urbanized areas where children live and play. The State agreed to analyze for lead from two of Bethlehem Steel's TSP monitors.

This commitment was acceptable to USEPA. (Note, the monitoring data show no violations of the lead standard in this area).

2. Inland Steel—East Chicago

Comment: Inland Steel raised objection to its being listed as a major lead stationary source. Inland Steel also contended that the ambient lead data showing violations of the lead standard that occurred before 1980 at monitors in East Chicago were not considered valid because they do not meet the sampling criteria. The commentor argued that these data should not be used as evidence that the standard was violated.

USEPA Response: Since Inland Steel emits less than 25 tons/year of lead, it is not considered a major lead source under 40 CFR 51.117. However, air quality data showed violations of the ambient lead standard at two sites in East Chicago near Inland Steel and LTV Steel in 1977 and 1979. For this reason, Inland Steel was included in the emission inventory for the modeling analysis to assess attainment of the lead NAAQS in this area.

Representative ambient data that show violation of the standard must be used in the control strategy development, even if the applicable sampling criteria are not met. These sampling criteria were established mainly to insure that findings of attainment are sufficiently documented.

Comment: Inland Steel believes that USEPA made poor technical judgment on the attainment status of East Chicago area (near Inland Steel and LTV). USEPA failed to treat East Chicago similarly to the Metropolitan Louisville study area (Jeffersonville site), despite the fact that both areas met the same criteria for an attainment demonstration.

USEPA Response: Although the recent monitoring data from the two monitors near Inland Steel and LTV show no violations of the standard, USEPA was not convinced that the overall East Chicago study area is attaining the ambient lead standard for reasons cited earlier (i.e., monitored violations of other sites in the area and previous lack

of an adequate modeling analysis). Therefore, USEPA maintains that an attainment demonstration is necessary for this area.

There is a great difference between the Metropolitan Louisville study area (Jeffersonville) and the East Chicago study area. Emission inventory data in the Louisville study area showed no significant lead emitting point sources, while the East Chicago area has several lead point sources that impact the lead air quality in the area. Therefore, these two areas cannot be treated the same in an attainment demonstration.

LTV Steel—East Chicago

(a) *Comment:* LTV contended that a formal demonstration of attainment was not necessary in the East Chicago area (near Inland Steel and LTV). The area had achieved the attainment of the lead standard for the same reason and in the same manner as it was achieved in the area around the Jeffersonville monitor. The population and traffic densities in East Chicago are comparable to those of the Jeffersonville and New Albany, Indiana areas, which USEPA had identified as a mobile source related sites.

USEPA Response: As discussed above, USEPA maintains that an attainment demonstration is necessary. The Jeffersonville/New Albany and East Chicago areas are vastly different and cannot be treated the same in an attainment demonstration.

(b) *Comment:* LTV indicated that USEPA's conclusion "that economic downturn in recent years has been in part responsible for improved monitoring data since 1979" was unfounded. LTV provided steel production data for 1976–1983 showing increase in production at LTV's Indiana Harbor Works since 1980.

USEPA Response: USEPA based its conclusion on a report developed by USEPA's consultant dated September 30, 1984, entitled "Technical Support Document for the State Implementation for Lead in the State of Indiana." The report indicated that the steel industry production dropped by 33 percent in the year 1982 from the previous years.

4. Hammond Lead Products—Hammond

Comment: Hammond Lead Products noted that under 40 CFR 51.40(c) in Subpart D, the Administrator requires a revision to the SIP when necessary to prevent a national ambient air quality plan from being exceeded. Further, under USEPA's promulgation of the lead NAAQS, States were generally required to demonstrate attainment of the lead NAAQS by no later than December 31, 1982. Applying these requirements, Hammond Lead Products questioned why USEPA required a SIP revision for lead from them when the lead monitoring data for the period of 1980–1983 showed no violation of the standard.

USEPA Response: Section 51.40(c), Air Quality Maintenance Area Plans, does not apply to the lead SIP. The requirements for maintenance of the lead NAAQS are covered in 40 CFR 51.117. 40 CFR 51.117(a)(2) (Demonstration of Attainment) requires a lead plan in areas: (1) Near certain lead point sources and (2) any other areas that have measured lead concentrations in excess of the NAAQS for lead since 1974. Since Indiana has areas where there are point sources of lead and ambient concentrations of lead in excess of the NAAQS for lead, Indiana is therefore required to submit a lead plan to USEPA for approval as a SIP revision. USEPA notes that there have been extensive monitored violations of the lead NAAQS since 1985 in the vicinity of Hammond Lead and Hammond lead is a point source for lead, i.e., a secondary lead smelter emitting more than five tons of lead per year.

C. Monitoring Plans

On September 3, 1981 (46 FR 44159), USEPA published its final rules pertaining to Ambient Lead Monitoring and Data Handling, codified at 40 CFR Part 58. The rules call for the development of a State monitoring plan for lead and its inclusion into the surveillance and ambient monitoring program. These plans must meet USEPA's monitoring requirements, including scheduling requirements, requirements concerning the establishment of monitoring network, and data handling and reporting procedures.

On November 30, 1981, the State of Indiana submitted to USEPA a revision to its SIP which provides for the establishment of an air quality surveillance network for lead. The submittal included a description of the proposed network and commits the State to the implementation of statewide State and Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS), operated in accordance with the criteria given in Subpart B of 40 CFR Part 58, Appendix E, section 7. Ambient air quality monitoring methodologies used in the SLAMS network will either follow those in 40 CFR Part 58, Appendix E, or will be equivalent. The quality assurance procedures of Appendix A of 40 CFR Part 58 will be followed in operating its SLAMS sites and processing/analyzing the air quality data.

The lead monitoring stations will be reviewed on an annual basis and modified as needed to eliminate unnecessary sites or to correct inadequacies indicated by the annual review. No changes will be made to the network unless prior approval is given by USEPA. The annual SLAMS summary report will be submitted to USEPA by July 1 of each year.

USEPA's original review of the Indiana lead monitoring plan revealed that it met all applicable requirements, with the exception of 40 CFR Part 58, Appendix D, section 2.7, which requires lead monitoring in the vicinity of significant lead sources. In an October 19, 1983, letter, USEPA informed the State that it was required to install lead monitors in these areas. The State of Indiana has installed lead monitors in certain identified areas as documented in its May 4, 1984, submittal and May 21, 1984, letter (which includes maps showing locations of monitors near stationary sources). In 1986, Indiana notified USEPA that six lead stations were discontinued due to historically low measured values.

In the December 16, 1986, submittal, Indiana provided all lead measurements for the period 1983–1986 (2nd or 3rd quarter). Source-oriented monitors are located near Hammond Lead-Halox, U.S.S. Lead, Refined Metals, and Delco Remy (note, the Delco Remy monitor was shutdown in the 3rd quarter of 1986 due to low monitored values—i.e., less than or equal to 0.12 $\mu g/m^3$ over the past three years). Although Hammond Lead-Halstab (new plant) is near the U.S.S. Lead oriented site, an additional site oriented to this plant was initiated in the early spring of 1987.

Oxide and Chemical previously operated two lead monitors near its plant during 1981. This limited monitoring data showed attainment of the lead standard. Because the final rule restricts the hours of operation for Oxide and Chemical's Franklin Reactor, the State and USEPA have determined that a new monitor is not necessary at this time in the vicinity of Oxide and Chemical.

In addition, a lead monitor is located 0.6 km northwest of RSR Quemetco in Indianapolis. The sampling frequency at this site was increased to once every day starting January 1987. Because of various constraints (i.e., wooded area, railroad tracks, and lack of power), it is not practical to locate a site closer to this facility.

Recent lead monitor data show violations of the quarterly lead standard

in the vicinity of Hammond Lead, Refined Metals, and U.S.S. Lead. Since U.S.S. Lead shut down in early 1986, no monitored violations have occurred. It is anticipated that the installation of new hooded systems at the Refined Metals plant in Indianapolis will eliminate the violations in the vicinity of this source. The sampling frequency at the Refined Metals site on South Arlington Avenue has been increased to once every two days, starting January 1987.

For the Hammond Lead site, compliance with the emission limits in the rule is predicted to result in attainment at the Summer Street site. However, 325 IAC 15–1 requires Hammond Lead to investigate further fugitive emissions not regulated by 325 IAC 15–1. The rule requires the submittal of an alternative control strategy, if necessary, by December 31, 1988. This control strategy will be designed to assure attainment and maintenance of the lead standard and will eliminate any uncertainty as to the adequacy of the current control strategy. The sampling frequency at the Summer Street site has been increased to once every two or three days in early spring 1987.

Action

USEPA is approving the revised Indiana Air Quality Surveillance Plan, including the recent deletions. USEPA notes that no violations of the lead NAAQS were monitored in Indiana in the second and third quarters of 1987, the two most recent quarters of data available to USEPA.

D. New Source Review (NSR)

In order to satisfy this requirement, USEPA published in the **Federal Register** on December 10, 1987 (52 FR 46762), a notice of final rulemaking approving Indiana New Source Review (NSR) rule (325 IAC 2–1–1) for lead.

III. Conclusion

USEPA has reviewed the State submittals and is approving the following:

Study Areas	USEPA's Final Action
A. *Mobile Source Related Sites:*	
1. Frank Borman Expressway (I-50/94) west of Cline Avenue (Indiana 912) to a point east of Indianapolis Boulevard (Indiana 152/US-20) (Lake County).	Approval.
2. Jeffersonville Monitoring Site at Junction of I-65/US-62. (Clark County).	Approval.
3. New Albany—Floyd County.	Approval.
B. *Stationary Source Related Sites:*	
1. Refined Metals, Inc., Indianapolis—Marion County.	Approval based on Indiana's commitment to incorporate additional design and operating criteria within Refined Metals' operating permit.
2. U.S.S. Lead Refinery, East Chicago—Lake County.	Approval.
3. Oxide and Chemical, Inc. Brazil—Clay County.	Approval.
4. Hammond Lead Products, Hammond—Lake County.	Approval under the stipulation that Indiana will implement the further studies required by 325 IAC 15–1–2(a)(6)(B), (C), and (D) and its June 9, 1987, commitment.
5. G.M. Delco Remy, Muncie—Delaware County.	Approval.
6. Chrysler Corporation Foundry, Indianapolis—Marion County.	Approval.
7. RSR Quemetco, Indianapolis—Marion County.	No Final Action; (Subject of separate rulemaking action).
C. *Other Sites:*	
1. U.S. Steel, Gary—Lake County.	Approval.
2. Bethlehem Steel, Burns Harbor—Porter County.	Approval.
3. Inland Steel and LTV Steel, East Chicago—Lake County.	Approval.
4. Corning Glass, Bluffton—Wells County.	Approval.
D. *Ambient Lead Monitoring Plan.*	Approval.
E. *New Source Review*	Approval; (Subject of Separate Rulemaking Action).

USEPA is approving the Indiana lead SIP, including 325 IAC 15–1 (promulgated by the State on January 27, 1987) with the exception of RSR Quemetco. USEPA will propose approval of the amendments to Rule 325 IAC 15–1 (as submitted on February 3, 1988) and the Indiana Lead Plan for RSR Quemetco and three other non-point sources (Exide Corporation in Logansport, C & D Batteries in Attica, and General Battery Corporation in Frankfort) in a future **Federal Register** notice.

Since USEPA is approving 325 IAC 15–1 and the other requirements in Indiana's lead plan, this approval will not affect in any way the existing SIP requirements as they apply to the sources in the lead plan, i.e., therefore the sources remain bound by the existing TSP, opacity, volatile organic compound, etc. SIP requirements.

Under Executive Order 12291, today's action is not "Major." 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 June 20, 1988. 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, Incorporation by reference, Intergovernmental relations, Lead.

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

Dated: March 28, 1988.

Lee M. Thomas,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7642.

Indiana

2. Section 52.770 is amended by adding new paragraph (c)(65) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(65) On November 30, 1981, Indiana established its air quality surveillance network for lead. On November 21, 1983, Indiana notified USEPA that Corning Glass was shut down. On February 18, 1987, Indiana submitted its regulation to control lead emissions, 325 IAC 15–1.

(i) *Incorporation by reference.*

(A) 325 IAC 15–1, Lead Emission Limitations, effective February 27, 1987.

(B) Letter of February 18, from the State of Indiana to EPA.

(ii) *Additional material.* (A) A November 30, 1981, letter from Harry Williams, Technical Secretary, Indiana Air Pollution Control Board establishing Indiana's air quality surveillance network for lead.

(B) A November 21, 1983, letter from Harry Williams, Technical Secretary, confirming that the Corning Glass facility in Wells County was permanently shut down and had been taken out of the State's emission inventory.

(C) A June 9, 1987, letter from Timothy Method, Acting Assistant Commissioner, submitting a general strategy and additional increments of progress required of Hammond Lead.

* * * * *

3. New § 52.797 is added to read as follows:

§ 52.797 Control strategy: Lead.

Indiana's control strategy for lead is approved except as noted below:

(a) Indiana's plan for the vicinity of the RSR Quemetco facility in Marion County has not been acted upon.

(b) Indiana's plan for the vicinity of the Hammond Lead HLP-Halox facility is approved with the stipulation that Indiana and Hammond Lead adhere to the requirements of 325 IAC 15-1-2(a)(B), (C), and (D) and the State's June 9, 1987, commitments. See 40 CFR 52.770(c)(65)(ii)(C).

[FR Doc. 88-8037 Filed 4-18-88; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3364-8]

Approval and Promulgation of Implementation Plans; Indiana

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

ACTION: Notice of proposed rulemaking.

SUMMARY: On April 10, 1987 (52 FR 11696), USEPA published a notice of reproposed rulemaking on the Indiana lead Plan, requiring that the Indiana Lead rule 325 IAC 15–1 be revised to provide an enforceable mechanism to prevent RSR Quemetco (Marion County) and other smaller sources from increasing their lead emissions above five tons/year.

In order to comply with this requirement, on February 3, 1988, the State submitted to USEPA a revised rule amending rule 325 IAC 15–1. The amendments include site-specific emission limits, a fugitive dust control plan, and an operation and maintenance (O&M) program for RSR Quemetco. The amended rule also requires an O&M program and fugitive dust control plans for Exide Corporation in Logansport, C & D Batteries in Attica, and General Battery Corporation in Frankfort.

USEPA proposes to approve revised rule 325 IAC 15–1 and the lead plans for RSR Quemetco and the three other lead sources (Exide Corporation, C & D Batteries, and General Battery Corporation).

DATE: Comments on this revision and on the proposed USEPA action must be received by June 20, 1988.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Anne E. Tenner, at (312) 353–2205, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Office of Air Management, Indiana Department of Environmental Management, 105 South Meridian Street, P.O. Box 6015, Indianapolis, Indiana 46206–6015.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.)

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

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 353–2205.

SUPPLEMENTARY INFORMATION: On April 10, 1987 (52 FR 11696), USEPA published a notice of re-proposal in the **Federal Register** on the Indiana Lead Plan requiring that the Indiana lead rule 325 IAC 15–1 be revised to provide an enforceable mechanism to prevent RSR Quemetco and other smaller sources from increasing their lead emissions above five tons/year.

In order to comply with this requirement, on July 17, 1987, the State submitted to USEPA a preliminary adopted rule amending rule 325 IAC 15–1. The State requested that the amended rule be "parallel processed" for approval as a SIP revision. The amendments include site-specific emission limits, fugitive dust control plans, and operation and maintenance programs for RSR Quemetco in Marion County. The amended rule also requires an O&M program and fugitive dust control plans for Exide Corporation in Logansport, C & D Batteries in Attica, and General Battery Corporation in Frankfort. The revised rule was submitted as finally promulgated by the State on February 3, 1988. This rule replaces existing rule 325 IAC 15–1.

USEPA proposes to approve (1) revised rule 325 IAC 15–1 and (2) the lead plans for RSR Quemetco and three other lead sources (Exide Corporation in Logansport, C & D Batteries in Attica, and General Battery Corporation in Frankfort). USEPA is proposing approval based, in part, on the State's January 12, 1988, commitment letter discussed further below. Additional information on the amendments to rule 325 IAC 15–1 are discussed in a Technical Support Document which may be found at Region V.

The amendments to rule 325 IAC 15–1 are discussed below:

325 IAC 15–1–2(a)(8)

Source	Facility description	Emission limitations (lbs/hr.)
RSR Quemetco Indianapolis.	Main smelter stack	0.805
	Refinery kettle baghouse stack.	0.003
	Kettle sanitary baghouse stack.	0.001
Fugitives	Reverberatory furnace.	0.177
	Refinery kettles	0.0001
	Casting	0.001
	Electric furnace	0.016

(A) Fugitive emissions from charging of the reverberatory furnace shall be controlled with an enclosed conveyor system designed to achieve a capture efficiency of at least 99%.

(B) Fugitive emissions from the refinery kettles shall be controlled by a system designed to achieve a capture efficiency of at least 99%.

(C) Fugitive emissions from the casting operation shall be controlled by a system designed to achieve a capture efficiency of at least 90%.

(D) Fugitive emissions from the electric arc furnace shall be controlled by a system designed to achieve a capture efficiency of at least 95%.

If RSR Quemetco complies with these emission limits its emissions will be less than five tons per year. However, Indiana did not submit its methodology to determine compliance with its 90%/95%/99% capture efficiency requirements. On January 12, 1988, Indiana committed to investigate this problem and will incorporate within RSR Quemetco's operating permits specific criteria, i.e., process and control equipment design and operating parameters, for determining compliance with the capture efficiency provisions. These will be submitted to USEPA. USEPA is proposing to approve the Indiana lead plan for RSR Quemetco based, in part, on Indiana's January 12, 1988, commitment letter.

325 IAC 15–1–2(b)

In addition to the sources listed in 325 IAC 15–1–2(a), the following sources shall comply with 325 IAC 15–1–2(c) and 325 IAC 15–1–3:[1]

(1) Exide Corporation, Logansport

(2) C & D Batteries, Attica

(3) General Battery Corporation, Frankfort.

325 IAC 15–1–2(c)

Operation and maintenance programs shall be designed to prevent deterioration of control equipment performance. For sources listed in 325 IAC 15–1–2(a)(1) thru (7),[2] these programs shall be submitted to the Office of Air Management on or before June 1, 1987. For sources listed in 325 IAC 15–1–2(a)(8) and 325 IAC 15–1–2(b), these programs shall be submitted to the Office of Air Management on or before February 1, 1988. These programs will be incorporated into the individual source's operations permits.

[1] 325 IAC 15–1–3, Control of Fugitive Dust, is Indiana's lead fugitive dust regulation, which is being approved elsewhere in today's **Federal Register.**

[2] Final rulemaking on the plans for the sources listed in 325 IAC 15–1–2(a)(1) thru (7) is being taken elsewhere in today's **Federal Register.**

Conclusion

The amendments to rule 325 IAC 15–1 are approvable as a revision to the Indians Lead Plan. The amendments also satisfy the requirements of the April 10, 1987 (52 FR 696), **Federal Register** notice proposing approval of a statewide lead plan.

As a result, USEPA is proposing to approve (1) the revised rule 325 IAC 15–1 (as submitted on February 3, 1988) and (2) the lead plans for RSR Quemetco and three other lead sources (Exide Corporation in Logansport, C & D Batteries in Attica, and General Battery Corporation in Frankfort). This proposed approval is based in part on the State's January 12, 1988, commitment letter.

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

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

Authority: 42 U.S.C. 7401—7642.

Dated: September 28, 1987.

Editorial Note: This document was received by the Office of the Federal Register on April 15, 1988.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 88–8038 Filed 4–18–88; 8:45 am]

BILLING CODE 6560–50–M

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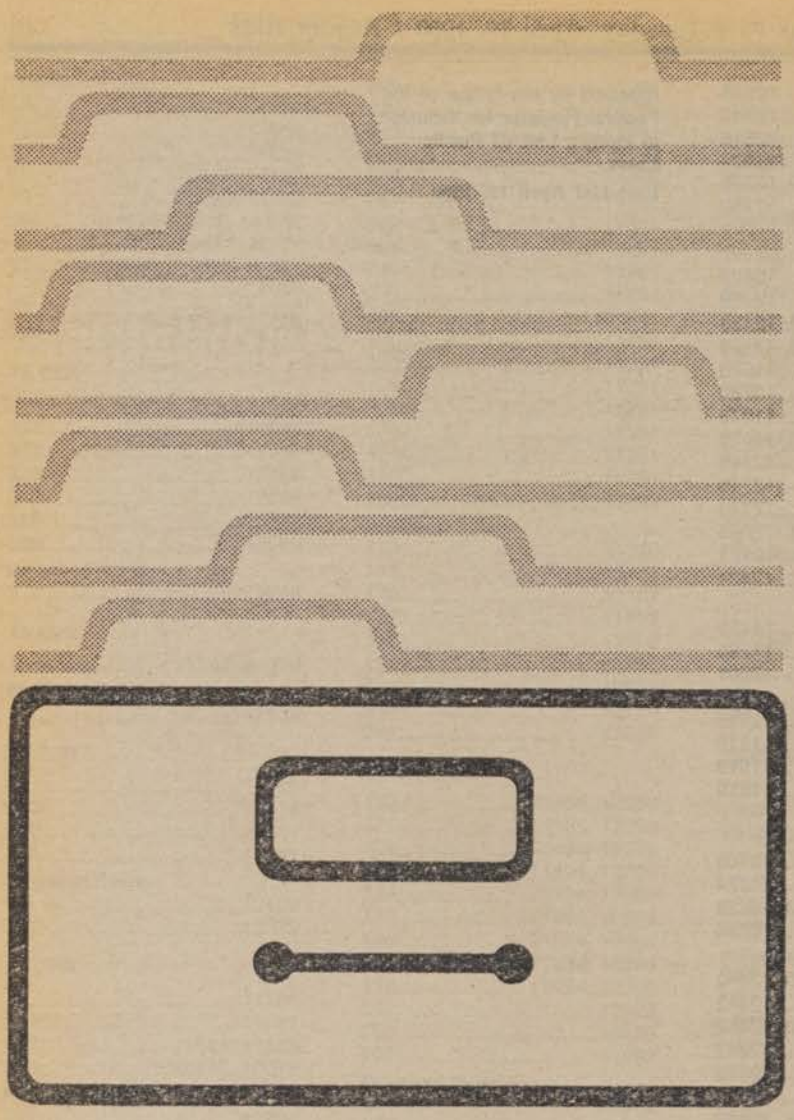

Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1986
SUPPLEMENT: Revised January 1, 1988

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The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

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