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Federal Register

Tuesday
June 10, 1986

Briefings on How To Use the Federal Register—
For information on briefings in Seattle, WA, and San Francisco, CA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

SEATTLE, WA

WHEN: July 22; at 1:30 pm.

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

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

Seattle	206-442-0570
Tacoma	206-383-5230
Portland	503-221-2222

SAN FRANCISCO, CA

WHEN: July 24; at 1:30 pm.

WHERE: Room 2007, Federal Building, 450 Golden Gate Avenue, San Francisco, CA.

RESERVATIONS: Call the San Francisco Federal Information Center, 415-556-6600

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Presidential Documents

Title 3—

The President

Proclamation 5498 of June 6, 1986

Temporary Duty Increase on the Importation Into the United States of Wood Shingles and Shakes of Western Red Cedar

By the President of the United States of America

A Proclamation

1. Pursuant to Section 201(d)(1) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2251(d)(1)), the United States International Trade Commission (USITC) on March 25, 1986, reported to the President the results of its investigation No. TA-201-56 under Section 201(b) of the Trade Act (19 U.S.C. 2251(b)). The USITC determined that wood shingles and shakes, provided for in item 200.85 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. The USITC recommended that a tariff of 35 percent ad valorem be imposed for a period of 5 years on imports of wood shingles and shakes of western red cedar in order to remedy this serious injury.

2. On May 23, 1986, pursuant to Section 202(b)(1) of the Trade Act (19 U.S.C. 2252(b)(1)), and after taking into account the considerations specified in Section 202(c) of the Trade Act (19 U.S.C 2252(c)), in order to remedy this serious injury, I determined to impose a tariff on imports into the United States of wood shingles and shakes of western red cedar in an amount that differs from the tariff recommended by the USITC. On May 23, 1986, in accordance with Section 203(b)(1) of the Trade Act (19 U.S.C. 2253(b)(1)), I transmitted a report to the Congress setting forth my determination and intention to proclaim a temporary tariff and stating the reason why my decision differed from the action recommended by the USITC.

3. Section 203(e)(1) of the Trade Act (19 U.S.C. 2253(e)(1)) requires that import relief be proclaimed and take effect within 15 days after the import relief determination date.

4. Pursuant to Sections 203(a)(1) and 203(e)(1) of the Trade Act, I am providing import relief through the temporary imposition of a tariff on wood shingles and shakes of western red cedar, as hereinafter proclaimed.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including Sections 203 and 604 of the Trade Act (19 U.S.C. 2253 and 2483), do proclaim that—

(1) Subpart A, part 2 of the Appendix to the TSUS is modified as set forth in the Annex to this proclamation.

(2) This proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after June 7, 1986, and before the close of June 6, 1991, unless the period of its effectiveness is earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of June, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

ANNEX

Note: The new tariff items are set forth in columnar form, and material in such columns is inserted in the columns of the TSUS designated "Item", "Articles", "Rates of Duty 1", and "Rates of Duty 2", respectively.

Subject to the above note, the TSUS is modified as follows:

Effective as to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of this proclamation and before the close of the date provided by this proclamation, subpart A of part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified by inserting in numerical sequence the following new items and superior heading:

	"Wood shingles and shakes of western red cedar provided for in item 200.85:.		
924.30	If entered during the period from June 7, 1986, through December 6, 1988, inclusive	35% ad val.	35% ad val.
924.31	If entered during the period from December 7, 1988, through December 6, 1990, inclusive	20% ad val.	20% ad val.
924.32	If entered during the period from December 7, 1990, through June 6, 1991, inclusive	8% ad val.	8% ad val."

[FR Doc. 86-13180
Filed 6-6-86; 4:11 pm]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

Avocados Grown in South Florida and Imported Avocados; Maturity Requirements

Correction

In FR Doc. 86-11442 beginning on page 18565 in the issue of Wednesday, May 21, 1986, make the following correction:

§ 915.331 [Corrected]

On page 18567, in § 915.331(a)(2), in Table I, in the entry for "Pinelli", remove the third line of entries in all four columns.

BILLING CODE 1505-01-M

7 CFR Part 1097

[Docket No. AO-219-A43]

Milk in the Memphis, TN, Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the plant location adjustment provisions of the Memphis, Tennessee order. The changes are base on evidence presented at a public hearing on March 4-7, 1986, in Irving, Texas. They were proposed by two cooperative associations and the operator of a fluid milk plant. The changes are needed to align prices among Federal order markets after May 1, 1986, when the Class I differentials mandated by the Food Security Act of 1985 became effective. The amended order was approved by the market's dairy farmers who voted in a referendum.

EFFECTIVE DATE: June 10, 1986.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued February 14, 1986; published February 21, 1986 (51 FR 6250).

Emergency Final Decision: Issued May 8, 1986; published May 16, 1986 (51 FR 17982).

Findings and Determinations

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Memphis, Tennessee marketing area.

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

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective upon publication of this document in the **Federal Register.** Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The emergency final decision of the Deputy Assistant Secretary containing all amendment provisions of this order was issued May 8, 1986 (51 FR 17982). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the Federal Register, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register.** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

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

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

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

(3) The issuance of the order amending the order is approved by more than the necessary three-fourths of the producers who voted in the referendum.

List of Subjects in 7 CFR Part 1097

Milk marketing order, Milk, Dairy products.

Order Relative to Handling

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

PART 1097—MILK IN THE MEMPHIS, TENNESSEE, MARKETING AREA

1. The authority citation for 7 CFR Part 1097 continues to read as follows:

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

2. Section 1097.52 is revised to read as follows:

§ 1097.52 Plant location adjustments for handlers.

(a) For milk received at a fluid milk plant from producers or a handler described in § 1097.9(c) and which is classified as Class I milk without movement to another fluid milk plant, the price specified in § 1097.50(a) shall be adjusted by the amount or at the rate specified in paragraphs (a) (1) through (4) of this section for the location of such plant.

(1) For a plant located in the State of Tennessee and more than 50 miles from the City Hall in Memphis, Tennessee, the adjustment shall be minus 25 cents.

(2) For a plant located in the State of Mississippi, the adjustment shall be as follows:

(i) In the Mississippi counties of Itawamba, Lafayette, Lee, Panola, Pontotoc, Prentiss, Tate, Tunica or Union, the adjustment shall be plus 13 cents; and

(ii) In any Mississippi county not specified in paragraph (a)(2)(i) of this section and more than 50 miles from the City Hall in Memphis, Tennessee, the adjustment shall be plus 2.1 cents for each 10 miles or fraction thereof (rounded to the nearest cent) that such plant is located from the City Hall in Memphis, Tennessee.

(3) For a plant located in the State of Arkansas, the adjustment shall be as follows:

(i) In the Arkansas counties of Arkansas, Clark, Cleburne, Cleveland, Conway, Crawford, Crittenden, Cross, Dallas, Desha, Faulkner, Franklin, Garland, Grant, Hot Spring, Howard, Jefferson, Johnson, Lee, Lincoln, Logan, Lonoke, Monroe, Montgomery, Perry, Phillips, Pike, Polk, Pope, Prairie, Pulaski, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, White, Woodruff or Yell, no adjustment shall apply;

(ii) In any Arkansas county lying north of any county specified in paragraph (a)(3)(i) of this section, the adjustment shall be minus 22 cents; and

(iii) In any Arkansas county lying south of any county specified in paragraph (a)(3)(i) of this section, the adjustment shall be plus 31 cents.

(4) For a plant located outside the areas described in paragraphs (a) (1), and (2) and (3) of this section, the adjustment shall be minus 2.1 cents for each 10 miles or fraction thereof (rounded to the nearest cent) that such plant is located from the City Hall in Memphis, Tennessee.

(b) For fluid milk products transferred in bulk between fluid milk plants and classified as Class I milk, such location adjustments shall be assigned to the Class I disposition at the transferee-plant in excess of the sum of receipts at such plant from producers and from handlers described in § 1097.9(c) times 1.05, and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made in sequence beginning with the transferor plant with the highest Class I price.

Effective date: June 10, 1986.

Signed at Washington, DC, on: June 4, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 86–13012 Filed 6–9–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 25002; Amdt. No. 1322]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference, approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by

reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number. This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedures before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

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

John S. Kern,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective August 28, 1986

Oakdale, CA—Oakdale, VOR RWY 10, Amdt. 3
Stockton, CA—Stockton Metropolitan, VOR RWY 29R, Amdt. 17
Stockton, CA—Stockton Metropolitan, NDB RWY 29R, Amdt. 14
Stockton, CA—Stockton Metropolitan, ILS RWY 29R, Amdt. 18
Tracy, CA—Tracy Muni, VOR-A, Amdt. 4

. . . Effective July 31, 1986

Daggett, CA—Barstow-Daggett, VOR or TACAN RWY 22, Amdt. 7
Faribault, MN—Faribault Muni, VOR-A, Amdt. 2
Faribault, MN—Faribault Muni, RNAV RWY 12, Amdt. 1
Philip, SD—Philip, VOR-A, Amdt. 10
Marlin, TX—Marlin, VOR/DME-A, Amdt. 4
Beloit, WI—Beloit, VOR-A, Amdt. 4
Eau Claire, WI—Eau Claire County, LOC/DME BC RWY 4, Amdt. 6
Janesville, WI—Rock County, ILS RWY 4, Amdt. 9
Monroe, WI—Monroe Muni, RNAV RWY 11, Amdt. 2
Waukesha, WI—Waukesha County, VOR-A, Amdt. 13
Waukesha, WI—Waukesha County, LOC RWY 10, Amdt. 2
Waupaca, WI—Waupaca Muni, NDB RWY 30, Amdt. 3

. . . Effective July 3, 1986

Bessemer, AL—Bessemer, VOR RWY 5, Amdt. 3
Bessemer, AL—Bessemer, NDB RWY 5, Amdt. 1
DeLand, FL—DeLand Muni-Sidney H. Taylor Fld, NDB RWY 30, Amdt. 2 CANCELLED
Gainesville, FL—Gainesville Regional, VOR-A, Amdt. 10
Orlando, FL—Orlando Executive, NDB RWY 7, Amdt. 14
Orlando, FL—Orlando Executive, ILS RWY 7, Amdt. 19
Orlando, FL—Orlando Executive, RADAR-1, Amdt. 23
Reidsville, GA—Reidsville, NDB RWY 11, Amdt. 5
Hibbing, MN—Chisholm-Hibbing, LOC BC RWY 13, Amdt. 9
Hibbing, MN—Chisholm-Hibbing, ILS RWY 31, Amdt. 9
Lakeville, MN—Airlake, LOC RWY 29, Orig., CANCELLED
Minneapolis, MN—Minneapolis-St. Paul Intl Wold Chamberlain, ILS RWY 22, Amdt. 2
Jackson, MS—Allen C Thompson Field, RADAR-1, Amdt. 10
Glens Falls, NY—Warren County, VOR RWY 1, Amdt. 10
Glens Falls, NY—Warren County, VOR/DME RWY 1, Amdt. 4
Glens Falls, NY—Warren County, RNAV RWY 1, Amdt. 2
Palmyra, NY—Palmyra Airpark, VOR-A, Orig., CANCELLED
Palmyra, NY—Palmyra Airpark, VOR-A, Orig.
Greensboro, NC—Greensboro-High Point-Winston Salem Regnl, VOR/DME RWY 32, Amdt. 2
Salisbury, NC—Rowan County, VOR RWY 2 Amdt. 3
Waxhaw, NC—Jaars-Townsend, RNAV RWY 4, Amdt. 1
Pottsville, PA—Schuylkill County/Joe Zerbey NDB RWY 29, Amdt. 3, CANCELLED
Columbia, SC—Columbia Metropolitan, RADAR-1, Amdt. 6
Columbia, SC—Columbia Owens Downtown, RNAV RWY 31, Orig.
Athens, TN—McMinn County, NDB RWY 2, Amdt. 4
Athens, TN—McMinn County, NDB RWY 20, Amdt. 4
Camden, TN—Benton County, VOR/DME RWY 3, Amdt. 2
Chattanooga, TN—Lovell Field, VOR RWY 33, Amdt. 15
Chattanooga, TN—Lovell Field, NDB RWY 20, Amdt. 29
Chattanooga, TN—Lovell Field, ILS RWY 2, Amdt. 5
Chattanooga, TN—Lovell Field, ILS RWY 20, Amdt. 34
Livingston, TN—Livingston Muni, VOR/DME RWY 21, Amdt. 3
Madisonville, TN—Monroe County, NDB RWY 5, Amdt. 3
Selmer, TN—Robert Sibley, NDB RWY 16, Amdt. 3

Union City, TN—Everett-Stewart, SDF RWY 36, Amdt. 2
Union City, TN—Everett-Stewart, NDB RWY 36, Amdt. 2
Bridgewater, VA—Bridgewater Airpark, NDB-A, Amdt. 4
Chesapeake, VA—Chesapeake Muni, NDB RWY 5, Orig.

... Effective May 23, 1986

Galena, AK—Galena, VOR RWY 25, Amdt. 9
Galena, AK—Galena, VOR/DME or TACAN RWY 7, Amdt. 6

... Effective May 22, 1986

Burns, OR—Burns Muni, VOR RWY 30, Amdt. 2

... Effective May 21, 1986

Cut Bank, MT—Cut Bank Muni, VOR RWY 31, Amdt. 13

[FR Doc. 86-12974 Filed 6-9-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 981

[Docket No. 50223-6048]

Licensing of Ocean Thermal Energy Conversion Facilities and Plantships

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Final rules.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is amending the regulations implementing the Ocean Thermal Energy Conversion (OTEC) Act of 1980 as amended (42 U.S.C. 9101, *et seq.*, Pub. L. 96-320, amended by Pub. L. 98-623). No applications for OTEC licenses have been submitted to NOAA since passage of the OTEC Act and the President's budgets for fiscal years 1985, 1986 and 1987 have proposed no further funding for the OTEC licensing program. The purpose of this final rule is to fulfill NOAA's obligation to conform the regulations to the OTEC statute as amended in 1984. These regulations also reflect NOAA's conclusion, as a result of the periodic review of regulations required by the OTEC Act, that no additional modifications to the regulations are necessary.

EFFECTIVE DATE: July 10, 1986.

FOR FURTHER INFORMATION CONTACT: James B. Rucker, OTEC Program Manager, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Page 1 Building, Suite 105, 2001 Wisconsin Avenue, NW., Washington, DC 20235. Telephone (202) 254-3483.

SUPPLEMENTARY INFORMATION: On Thursday, November 21, 1985, NOAA published a proposed rule (50 FR 48097-48099) concerning these changes to the OTEC Act. The comment period on these proposed rules closed on December 23, 1985. Four comments were received on the proposed regulations.

Discussion of Comments

Four responses were received on the proposed regulations. None of the commenters expressed concern over the proposed changes or objected to the proposed regulations. NOAA made the determination that a public hearing was not required.

I. Prior Actions

On July 31, 1981, NOAA issued final regulations establishing a licensing process for Ocean Thermal Energy Conversion Facilities and Plantships (46 FR 39388-39420). The final rules were supported by a programmatic environmental impact statement (PEIS) and a combined Regulatory Impact Analysis and Regulatory Flexibility Analysis (RIA-RFA) both dated July 1981.

II. Availability of Comments

All comments received in response to the notice of proposed rulemaking are available for public examination and copying during normal business hours in Suite 105, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, DC.

III. Related Actions

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act NOAA has analyzed the costs and benefits of this rule.

A. Executive Order 12291

NOAA has made a final determination that these amendments are not a "major" rule under E.O. 12291. These amendments have been submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291.

B. Regulatory Flexibility Act

These amendments have been reviewed under the Regulatory Flexibility Act (5 U.S.C. 50 *et seq.*) and NOAA has determined that they will not have a significant economic impact on a substantial number of small entities. These regulations are intended to implement statutory amendments. The amendments and regulations relate primarily to NOAA jurisdiction and impose no new reporting, recordkeeping or other compliance requirements.

C. Paperwork Reduction Act

The regulations contain no collection of information requirements and are subject to the Paperwork Reduction Act. The information collection requirements in the existing rule have been reviewed and approved by OMB (OMB Control #0648-0144).

IV. General Background

On November 9, 1984, the OTEC Act was amended by Pub. L. 98-623 (hereinafter "1984 Amendments") primarily to clarify the extent on NOAA jurisdiction over OTEC facilities and plantships and to modify the requirements for Coast Guard documentation of OTEC facilities and plantships. The purpose of the regulations is to implement the 1984 Amendments by revising those portions of 15 CFR Part 981 which are inconsistent with, or technically inadequate in view of, the 1984 Amendments. The substance of the revisions is discussed in Section V of the preamble.

In the past two years NOAA has also conducted a periodic review of the OTEC regulations as required by section 117 of the OTEC Act. On May 11, 1983 (48 FR 21154) NOAA requested comments on the appropriateness and adequacy of existing regulations. Three comments were received, one expressing satisfaction with the existing information requirements, and two suggesting some modification to the application fee. After review of these comments, and in consideration of the 1984 Amendments to the application fee section and NOAA experience with OTEC and other similar licensing programs, NOAA has concluded that no additional modifications to the existing regulations are necessary beyond the proposal that excess fees be refundable.

V. Summary of Revisions

Section 981.40 Definitions.

The definition of an OTEC facility has been modified to delete the requirement that a facility be located in the territorial sea, and to provide instead that a facility which is "standing, fixed or moored in whole or in part seaward of the high water mark" constitutes an "OTEC facility" if the other elements of the definition are met. This change implements section 602(a)(2) of the 1984 Amendments. Similarly, the last sentence of the regulation's definition—which stated the previous scope of the definition in view of the territorial sea (i.e., seaward of the high water mark)

limitation—has been deleted and the following has been inserted: "If part of the OTEC facility is located seaward of the high water mark and part on land, the definition includes the entire facility." Therefore, under the 1984 Amendments and the definition, a facility is an "OTEC facility," and would therefore be authorized for ownership, construction and operation under a license, if any part of that facility is located seaward of the high water mark. The "facility" includes equipment on the facility, cables or pipelines, water intake and effluent discharge structures, as well as other associated equipment and appurtenances which are not located wholly on land.

Section 981.50 Who must apply for an OTEC license (and who does not need one)?

Section 981.50(a)(2) of the regulations has been revised to implement section 602(a)(3) of the 1984 Amendments. This section clarifies that if a facility is partially located seaward of the high water mark, the entire OTEC facility is covered by the licensing provisions of the Act.

Section 981.130 Application fees

Section 602(f) of the 1984 Amendments dropped the requirement that the application fee be nonrefundable. The existing regulations provide that the fee consist of three nonrefundable payments: $100,000 submitted to NOAA with the application; $100,000 submitted prior to the first public hearing on the application and a final payment of $50,000 prior to the end of the review process for a license. These regulations make no change in the schedule or amount of fee payment. After review, NOAA has determined that $250,000 is a reasonable estimate of the costs which will be incurred in reviewing and processing the application. However, the regulations do provide procedures for adjustment of costs and refund of a portion of the payments upon termination or withdrawal, in accordance with the 1984 Amendments.

Section 981.155 Compliance with Paperwork Reduction Act

The term "not" has been deleted and the reference to the Office of Management and Budget control number has been added. This change reflects that the provisions of these regulations are subject to the Paperwork Reduction Act.

Section 981.470 Criteria for approval or denial.

The phrase "not be documented under the laws of the United States" in § 981.470(a)(7) has been changed to "will be documented under the laws of a foreign national" based on section 602(a)(5) of the 1984 Amendments, which modifies section 101(c)(7) of the OTEC Act. This change in the statute allows greater flexibility with respect to documentation by the Coast Guard. NOAA thus may issue a license for an OTEC facility or plantship, which has not been documented under the laws of the United States when Coast Guard laws or regulations do not require such documentation.

Section 981.520 Terms and conditions of a license

The term "in or" has been added in § 981.520(g)(1) after "employees" based on section 602(a)(8) of the 1984 Amendments, amending section 110(1) of the OTEC Act. This change in the statute clarifies that Federal employees/observers may be "in" an OTEC facility (recognizing that it may be landbased) as well as "aboard" a facility or plantship (which connotes one floating).

Section 981.550 Suspension, revocation, termination, relinquishment or surrender of a license

The term "as recognized in any treaty or convention to which the United States is a party" has been deleted from the end of § 981.550(c) to conform to section 602(e)(17) of the 1984 Amendments, amending Section 111(b) of the OTEC Act.

Dated: May 30, 1986.

Anthony J. Calio,

Administrator.

List of Subjects in 15 CFR Part 981

Ocean Thermal Energy Conversion license: definition of "OTEC facility"; Technical amendments.

PART 981—[AMENDED]

For the reasons set forth above, the National Oceanic and Atmospheric Administration amends Part 981 of Title 15 of the Code of Federal Regulations as follows:

1. The authority citation for 15 CFR Part 981 is revised to read as follows:

Authority: Ocean Thermal Energy Conversion Act of 1980, Pub. L. 96–320, 94 Stat. 974 (42 U.S.C. 9101, *et seq.*) as amended by Pub. L. 98–623.

2. In § 981.40, the definition of "OTEC facility" is revised to read as follows:

§ 981.40 Definitions.

* * * * *

OTEC facility means any facility which is standing, fixed or moored in whole or in part seaward of the high water mark and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work and includes any equipment installed on such facility to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline use to deliver such electricity, fresh water or product to shore, and all other associated equipment and appurtenances of such facility, to the extent they are located seaward of the high water mark. If part of the OTEC facility is located seaward of the high water mark and part on land, the definition includes the entire facility.

* * * * *

3. In § 981.50, paragraph (a) is revised to read as follows:

§ 981.50 Who must apply for an OTEC license (and who does not need one)?

(a) *OTEC facilities.* No person may engage in the ownership, construction or operation of an OTEC facility which is:

(1) Documented under the laws of the United States; or

(2) Located in whole or in part between the high water mark and the seaward boundary of the United States territorial sea; or

(3) Connected to any State by pipeline or cable; except in accordance with a license issued pursuant to this part.

* * * * *

4. Section 981.130 is revised to read as follows:

§ 981.130 Application fee.

(a) *General.* Section 102(h) of the OTEC Act requires each applicant for a license to pay a fee which reflects the reasonable administrative costs incurred by NOAA in reviewing and processing the application.

(b) *Amount.* The applicant must submit the application fee in accordance with the following schedule:

(1) A payment of $100,000 must be submitted with each formal application for issuance of a license.

(2) An additional payment of $100,000 dollars must be submitted prior to the first public hearing held by NOAA on the issuance of the license.

(3) A final payment of $50,000 must be submitted prior to the end of the statutory review period outlined in § 981.360.

(c) *Adjusted costs.* If the costs incurred by NOAA in reviewing and

processing the application are significantly in excess of $250,000, the applicant is required to submit the additional payment before issuance of the license. If the costs incurred by NOAA in reviewing and processing the application are significantly less than $250,000, NOAA will refund the difference to the applicant.

(d) *Effect of withdrawal or termination of an application.* If the application is withdrawn or terminated by the Administrator or the applicant prior to a decision on the license application, the applicant is entitled to a refund of the application fee minus those costs incurred by NOAA in reviewing and processing the application up to the date of withdrawal or termination of the application. If the costs are significantly in excess of the amount submitted by the applicant based on the payment schedule in § 981.130(b), then the applicant is required to submit the additional payment to NOAA.

5. In § 981.155, paragraph (b) is revised to read as follows:

§ 981.155 Compliance with Paperwork Reduction Act.

* * * * *

(b) Compliance with specific recordkeeping and reporting requirements are subject to the requirements of the Paperwork Reduction Act Chapter 35 of Title 44 U.S.C. including 44 U.S.C. 3507 under OMB Approval #0648-0144.

* * * * *

6. In § 981.470 paragraph (a)(7) is revised to read as follows:

§ 981.470 Criteria for approval or denial.

* * * * *

(a) * * *

(7) The proposed OTEC facility or plantship will be documented under the laws of a foreign nation.

* * * * *

7. In § 981.520 paragraph (g)(1) is revised to read as follows:

§ 981.520 Terms and conditions of a license.

* * * * *

(g) *Monitoring of licensee's activities.* Each license will contain terms or conditions requiring the licensee:

(1) To allow the Administrator to place appropriate Federal officers or employees in or aboard the OTEC facility or plantship to which the license applies at such times and to such extent as the Administrator deems reasonable and necessary to assess compliance with any terms, conditions, or regulations applicable to the license, and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply;

* * * * *

8. In § 981.550, paragraph (c) is revised to read as follows:

§ 981.550 Suspension, revocation, termination, relinquishment or surrender of a license.

* * * * *

(c) *Emergency orders.* The Administrator may order the licensee to cease or alter construction or operation activities pending the completion of a judicial proceeding pursuant to paragraph (a) of this section if the Administrator determines that immediate suspension of such activities is necessary to protect public health and safety or to eliminate any imminent and substanial danger to the environment.

* * * * *

[FR Doc. 86-12906 Filed 6-9-86; 8:45 am]
BILLING CODE 3510-12-M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Amendment of Comprehensive Plan, Water Code of the Delaware River Basin and Administrative Manual—Part III Water Quality Regulations

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: At its May 28, 1986 business meeting the Delaware River Basin Commission amended its Comprehensive Plan and subsection 3.10.4B of the Water Code and Administrative Manual—Part III Water Quality Regulations in relation to disinfection. Subsection 4.30.9B.1 of Administrative Manual—Part III Water Quality Regulations was also amended with respect to disinfection. The amendments delete the Commission's requirement for year-round disinfection of treated sewage discharged to intrastate waters of the Basin and substitute a requirement that wastewater be effectively disinfected only as needed to meet applicable Commission or State water quality standards. Year-round disinfection would still be required on discharges to interstate streams.

EFFECTIVE DATE: May 28, 1986.

ADDRESS: Copies of the Commission's Water Code and Administrative Manual—Part III Water Quality Regulations are available from the Delaware River Basin Commission, P.O. Box 7360, West Trention, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission: Telephone (609) 883-9500.

SUPPLEMENTARY INFORMATION: The Commission held a public hearing on February 26, 1986, as noticed in the January 28, 1986 **Federal Register**, Vol. 51, No. 18, on proposed amendments calling for disinfection by dischargers to intrastate waters only as needed to meet applicable Commission or State water quality standards. Based upon the testimony received and further deliberation, the Commission has amended its Comprehensive Plan, Water Code and Administrative Manual—Part III Water Quality Regulations.

1. The Commission's Comprehensive Plan and subsection 3.10.4B of the Water Code and Administrative Manual—Part III Water Quality Regulations, which are referenced in 18 CFR Part 410, are amended to read as follows:

B. *Disinfection.* Wastes (exclusive of stormwater bypass) containing human excreta or disease-producing organisms shall be effectively disinfected before being discharged into surface bodies of water as needed to meet applicable Commission or State water quality standards.

2. Subsection 4.30.9B.1 of Administrative Manual—Part III Water Quality Regulations is amended to read as follows:

1. a. Waste treatment operations, except disinfection, shall not be curtailed at any time of the year.

b. The capability to resume disinfection, upon reasonable notice not to exceed 15 days, shall be maintained.

List of Subjects in 18 CFR Part 410

Water pollution control.

The authority citation for 18 CFR Part 410 continues to read as follows:

Authority: Delaware River Basin Compact (75 Stat. 688).

3. Reflecting the final action on the rules and regulations of the Delaware River Basin Commission, public notice of which is set forth herein, 18 CFR Part 410 is revised as follows:

PART 410—BASIN REGULATIONS; WATER CODE AND ADMINISTRATIVE MANUAL—PART III WATER QUALITY REGULATIONS

§ 410.1 Basin regulations—Water Code and Administrative Manual—Part III Water Quality Regulations.

(a) The Water Code of the Delaware River Basin is a codification of

regulations of the Delaware River Basin Commission concerning the policies and standards applicable to public and private water projects and programs within the Delaware River Basin. Article I of the water code sets forth general policies of the Commission. Article II concerns the conservation, development and utilization of Delaware River Basin water resources. Article III sets forth the water quality standards and guidelines for the Delaware River Basin. The Commission's Administrative Manual—Part III, Water Quality Regulations, apply to all waste dischargers, public and private, using the waters of the Delaware River Basin. The regulations contained within the Water Code and within the Administrative Manual—Part III Water Quality Regulations of the Delaware River Basin Commission are hereby incorporated in and made a part of this Part 410 and include all amendments to the Water Code and the Administrative Manual—Part III Water Quality Regulations adopted through May 28, 1986.

(b) The Water Code and the Administrative Manual—Part III and the regulations contained therein and information about them may be obtained from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

(c) The regulations may be amended from time to time by the Commission after due notice and public hearing. An official file of changes will be kept for public inspection in the offices of the Commission.

(Delaware River Basin Compact, 75 Stat. 688)

Susan M. Weisman,

Secretary.

June 3, 1986.

[FR Doc. 86-12994 Filed 6-9-86; 8:45 am]

BILLING CODE 6360-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 510

Service of Process

AGENCY: United States Information Agency.

ACTION: Final rule.

SUMMARY: In order to further agency organization, this rule creates procedures for the acceptance of legal process in claims or other lawsuits brought against the agency. As a result, either the General Counsel or other officials designated by him must be served in order to effect valid process. The rule vests this authority in the General Counsel, since he is responsible for legal proceedings involving the agency.

EFFECTIVE DATE: June 1, 1986.

FOR FURTHER INFORMATION CONTACT: C. Normand Poirier, Deputy General Counsel, United States Information Agency, Room 700, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 485-7976.

SUPPLEMENTARY INFORMATION:

E.O. 12291—Federal Regulations

The United States Information Agency has determined that this is not a major rule for the purpose of E.O. 12291, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, the United States Information Agency has determined that notice and comment are necessary under 5 U.S.C. 553(b)(3)(A) since this final rule pertains to agency organization and procedure.

List of Subjects in 22 CFR Part 510

Administrative practice and procedure, Courts, Judicial documents.

Title 22 of the Code of Federal Regulations will be amended to add a new Part 510 to read as follows:

PART 510—SERVICE OF PROCESS

Sec.
510.1 Service of process.

Authority: 5 U.S.C. 552(a)(1)(A).

§ 510.1 Service of process.

(a) The General Counsel of the United States Information Agency or any of his designees shall act as agent for the receipt of legal process against the United States Information Agency, as well as against employees of the agency to the extent that the process relates to the official functions of the employees.

(b) When accepting service of process for an employee in his official capacity, the General Counsel or his designee shall endorse on the server's return of process form, registered mail receipt, certified mail receipt, or express mail receipt: "Service accepted in official capacity only."

(c) Process shall be delivered to:

Mailing address: General Counsel and Congressional Liaison, United States Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

Location: Office of the General Counsel and Congressional Liaison, United States Information Agency, 301 Fourth Street, SW., Room 700, Washington, DC 20547.

Dated: June 3, 1986.

Charles Z. Wick,

Director.

[FR Doc. 86-12956 Filed 6-9-86; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 402

Water-Resources Research Program and the Water-Resources Technology Development Program, Administrative Procedures

AGENCY: Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: The purpose of this action is to establish procedures that will enable the Department of the Interior to meet its responsibilities in administering the Water-Resources Research Program and the Water-Resources Technology Development Program authorized by the Water Resources Research Act of 1984, sections 105 and 106 (Pub. L. 98-242, 42 U.S.C. 10304 and 10305). The issuance of this rule establishes the location of the administrative responsibility within the Department of the Interior; matching requirements and evaluation processes required by the Act; and application and reporting procedures. The rulemaking action is intended to provide clear and consistent administrative direction in conducting the program.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Francis H. Coley, Chief, Branch of Research Grants and Contracts, U.S. Geological Survey, WRD, 426 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 648-6805.

SUPPLEMENTARY INFORMATION:

Background

The Water Resources Research Act of 1984 (Pub. L. 98-242) authorized the Water-Resources Research Program and the Water-Resources Technology Development Program and repealed the Water Research and Development Act of 1978 (Pub. L. 95-467). The 1978 Act was administered by of the Office of

Water Research and Technology (OWRT) until it was abolished in 1982. OWRT functions relating to the water research and development, saline-water research and development, and technology-transfer activities authorized under the 1978 Act were transferred at that time to the Bureau of Reclamation. With the passage of the 1984 Act, Congress authorized the Water-Resources Research Program and the Water-Resources Technology Development Program and included specific language calling for rules and regulations to be promulgated pursuant to the new legislation. Secretarial Order 3106 designated the Director, U.S. Geological Survey (USGS), as the administrator of the Water Resources Research Act of 1984 and transferred from the Bureau of Reclamation to the USGS the past water-research and development activities authorized by Pub. L. 95–467 for closeout. This action confirms the Department of the Interior's intention to maintain administrative continuity for the program within the USGS. The new rule governing the Water-Resources Research Program and the Water-Resources Technology Development Program is placed in Chapter IV of Title 30 of the Code of Federal Regulations (CFR), for consistency with placement of all regulations relating to programs of the USGS.

Required Analyses

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291, and, therefore, a regulatory impact analysis is not required. Enactment of new regulations to administer the Water-Resources Research Program and the Water-Resources Technology Development Program will have an estimated economic impact of significantly less than $100 million. Additionally, this action is not expected to increase costs or prices of goods and services in the private sector or have any other adverse economic impacts which require a regulatory impact analysis under the provisions of the Executive Order.

The majority of participants in the Water-Resources Research Program and the Water-Resources Technology Development Program would be from nonprofit educational institutions. Therefore, it has been determined that the regulations do not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

The administrative procedures in this action have no potential for significant environmental impact and are categorically excluded from the requirements for compliance with the National Environmental Policy Act of 1969, as amended (Pub. L. 91–190, 83 Stat. 852).

Paperwork Reduction Act of 1980

Information-collection requirements contained in §§ 402.10, 402.11, and 402.15 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*). They have been assigned number 1028–0046 and approved for use through September 30, 1988.

Response to Public Comment

Three letters of comment were received in response to the proposed rule as published in the **Federal Register** (50 FR 42188) on October 18, 1985. A discussion of each comment follows:

Comment: Subpart B § 402.6a—Water Resources Research Program. The words ". . . and agencies of local or State governments . . . to be in the national interest," could as stated in the comment "be interpreted to exclude summarily any research proposed by us which demonstrates valid research need stemming from a treatment of the multistate alluvial valley as a unit." The comment also suggested the addition of the words "privately and publicly owned," before educational institutions and "other than educational," before local or State governments, and the addition of the following sentence, "Proposed research which otherwise meets the criteria in this section and which relates to large multistate geological/hydrological regions can be interpreted by the USGS as being in the national interest."

Response: The words "educational institutions" in the rule means all educational institutions and the recommended addition of "privately and publicly," and "other than educational" is not needed. The term "national interest" relates to research topics of study and not to geographical areas. The addition of the proposed statement concerning "national interest" places emphasis on geographical areas which is not the intent. The term "educational institutions" has been included in Subpart A § 402.3—Definitions.

Comment: Conducting research without a formal program of information dissemination and the communication of research results is not beneficial to society. The universities can serve a useful role in the program. It is recommended that the following two topics be added to Subpart B § 402.6(b), types of research to be undertaken.

1. Scientific information-dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research on water-resources problems.

2. Providing means for improved communications of research results, having due regard for the varying conditions and needs for the respective States and regions.

Response: The two types of research on dissemination and communications have been added to Subpart B § 402.6(b).

Comment: Subpart B § 402.6(b) enumerates types of research for which grants may be awarded under the Water-Resources Research Program and the Water-Resources Technology Development Program. This list does not and should not connote priority with regard to research topics. Clarifying language should be added to make this clear.

Response: Wording of Subpart B § 402.6(b) has been modified to reflect this suggestion.

Comment: Subpart B § 402.6 and 402.7 suggest that both the Water-Resources Research Program and the Water-Resources Technology Development Program will provide funds for research to "educational institutions, private foundations, private firms, individuals, and agencies of local or State governments." It is believed that a more explicit statement of the applicants' eligibility is required. As currently drafted, there are no apparent limitations on what kinds of agencies, organizations, or individuals are considered eligible to receive funding. At the very least it is urged that the rule specifically preclude the award of research grants to Federal agencies.

Response: The list of applicants in the rule is mandated by Pub. L. 98–242. The USGS is interested in supporting needed research and development; placing limitations on kinds of agencies, organizations, or individuals that may submit proposals is not in the best interest of the program. Although it was not necessary, because Federal agencies were not included in the list of eligibles, wording has been added to exclude Federal agencies to avoid any possible confusion.

Comment: Subpart C § 402.10(b) provides for identification of priorities in the USGS program announcements. In order to assure the broadest perspective, the process of setting research priorities should involve, in addition to the USGS, all Federal agencies with water-resource responsibilities and should include the National Science Foundation in an advisory capacity.

Response: Pub. L. 98–242 does not mandate the involvement of other Federal agencies, and, therefore, such a mandate cannot be placed into this rule and made a legal requirement. Coordinating efforts are being conducted by the USGS with other Federal water-resources agencies to minimize duplication, maintain awareness of related efforts, and identify potential priority issues.

Comment: Subpart B § 402.6 and 402.7 address the administration of both the Water-Resources Research Program and Water-Resources Technology Development Program. These two programs, in addition to the State Water Research Institute Program, were authorized in Title I of the Water Resources Research Act of 1984. Yet the proposed rule contains no language addressing the relationship among these three research program. It is believed there must be a clearly articulated strategy for coordinating limited research dollars. Indeed, section 103 of the Water Resources Research Act of 1984 states that one of the purposes of the Act is to "coordinate more effectively the Nation's water-resources research program." The USGS is encouraged to include in the rule an explanation of the relationship among the three water-research programs authorized in Title I of Pub. L. 98–242 including coordination of annual funding, grant applications, and research priorities.

Response: To coordinate the State Water Research Institute, Water-Resources Research, and Water-Resources Technology Development Programs, the USGS has organizationally placed the administration of these three programs under the Water Resources Division, Office of External Research. These three programs address different issues. The State Water Research Institute Program provides support to State or regional Institutes to resolve State and regional water and related land problems. The Water-Resources Research Program provides support for research problems in the national interest. The Water-Resources Technology Development Program provides support for technology development of water-related problems. The USGS feels that it is not necessary to explain the relationship between these programs because the different program descriptions, application, evaluation, and management procedures for each program have been identified in 30 CFR Part 401, State Water Research Institute Program, and this rule. Also, the funding for these programs is provided separately by Congress, and the USGS does not have the authority to change program funding.

Catalog of Federal Domestic Assistance

Programs to be affected in the Catalog of Federal Domestic Assistance are No. 15.806 for the Water-Resources Research Program and No. 15.807 (reserved) for the Water-Resources Technology Development Program.

List of Subjects in 30 CFR Part 402

Water resources, Research grant programs—natural resources, Government contracts, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Chapter IV of Title 30 of the CFR is amended by adding Part 402 to read as follows:

PART 402—WATER-RESOURCES RESEARCH PROGRAM AND THE WATER-RESOURCES TECHNOLOGY DEVELOPMENT PROGRAM

Subpart A—General

Sec.
402.1 Purpose.
402.2 Delegation of authority.
402.3 Definitions.
402.4 Information collection.
402.5 [Reserved]

Subpart B—Description of Water-Resources Programs

402.6 Water-Resources Research Program.
402.7 Water-Resources Technology Development Program.
402.8–402.9 [Reserved]

Subpart C—Application, Evaluation, and Management Procedures

402.10 Research project applications.
402.11 Technology-development project applications.
402.12 Evaluation of applications for grants and contracts.
402.13 Program management.
402.14 [Reserved]

Subpart D—Reporting

402.15 Reporting procedures.
402.16—402.20 [Reserved]

Authority: Sec. 105 and 106, Pub. L. 98–242, 98 Stat. 97 (42 U.S.C. 10304 and 10305).

Subpart A—General

§ 402.1 Purpose.

The regulations in this part are issued pursuant to Title I of the Water Resources Research Act of 1984 (Pub. L. 98–242, 98 Stat. 97), which authorizes appropriations to, and confers authority upon, the Secretary of the Interior to promote national programs of water-resources research and technology development.

§ 402.2 Delegation of authority.

The Water-Resources Research Program and the Water-Resources Technology Development Program, as authorized by sections 105 and 106 of the Act (42 U.S.C. 10304 and 10305), have been established as components of the USGS. The Secretary of the Interior has delegated to the Director of the USGS authority to take actions and make the determinations that, under the Act, are the responsibility of the Secretary.

§ 402.3 Definitions.

(a) "Grant" is used in these rules as a generic term for a Federal assistance award, including project grants and cooperative agreements.

(b) "Act" means the Water Resources Research Act of 1984 (Pub. L. 98–242, 98 Stat. 97).

(c) "Educational institution" means any educational institution—privately and/or publicly owned.

(d) "Dollar-for-dollar matching grant" means for each Federal dollar provided to support the projects, a non-Federal dollar also must be provided to the project.

§ 402.4 Information collection.

The information-collection requirements contained in sections 402.10, 402.11, and 402.15 have been approved by the OMB under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1028–0046. The application proposals being collected will contain technical information that will be used by the USGS as a basis for selection and award of grants. The progress reports being collected will contain a description of all work accomplished and results achieved on each funded project and will enable the USGS to carry out its oversight responsibilities and provide dissemination of technical information.

§ 402.5 [Reserved]

Subpart B—Description of Water-Resources Programs

§ 402.6 Water-Resources Research Program.

(a) Subject to the availability of appropriated funds, the Water-Resources Research Program will provide support, in the form of a dollar-for-dollar matching grant, to educational institutions, private foundations, private firms, individuals, and agencies of local or State governments for research concerning any aspect of a water-resource related problem deemed to be in the national interest. Federal agencies are excluded from receiving matching

grants. Grants may be awarded on other than a dollar-for-dollar matching basis in cases where the USGS determines that research on a high-priority subject is of a basic nature that otherwise would not be undertaken.

(b) The types of research to be undertaken under this program are listed below, without indication of priority:

(1) Aspects of the hydrologic cycle;

(2) Supply and demand for water;

(3) Demineralization of saline and other impaired waters;

(4) Conservation and best use of available supplies of water and methods of increasing such supplies;

(5) Water reuse;

(6) Depletion and degradation of groundwater supplies;

(7) Improvements in the productivity of water when used for agricultural, municipal, and commercial purposes; and

(8) The economic, legal, engineering, social, recreational, biological, geographic, ecological, and other aspects of water problems.

(9) Scientific information-dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research on water-resources problems.

(10) Providing means for improved communications of research results, having due regard for the varying conditions and needs for the respective States and regions.

§ 402.7 Water-Resources Technology Development Program.

(a) Subject to the availability of appropriated funds, the Water-Resources Technology Development Program will provide funds in the form of grants or contracts to educational institutions, private firms, private foundations, individuals, and agencies of local or State governments for technology development concerning any aspect of water-related technology deemed to be of State, regional, and national importance, including technology associated with improvement of waters of impaired quality and the operation of test facilities. Federal agencies are excluded from receiving grants or contracts. The types of technology-development to be undertaken under this program shall include items 1 through 10 of § 402.6(b).

(b) The USGS may establish any condition for the matching of funds by the recipient of any grant or cost-sharing under a contract under the technology-development program which the USGS considers to be in the best interest of the Nation.

§§ 402.8-402.9 [Reserved]

Subpart C—Application, Evaluation, and Management Procedures

§ 402.10 Research-project applications.

(a) Only those applications for grants that are in response to and meet the guidelines of specific USGS announcements will be considered for funding appropriated for this program.

(b) The USGS program announcements will identify priorities, matching requirements, particular areas of interest, criteria for evaluation, OMB regulations as appropriate, assurances, closing date, and proposal submittal instructions. Program announcements may also include criteria for high-priority subjects of a basic nature that may be funded on other than a dollar-for-dollar basis. Program announcements will be distributed to names on the current USGS mailing list for the Water-Resources Research Program announcements, including new requests received in response to published notices of upcoming program announcements.

(c) Notification of the availability of the program announcement will be published in the Commerce Business Daily and/or **Federal Register.**

(d) The application for funds must be signed by an individual or official authorized to commit the applicant and it must contain:

(1) A Standard Form 424 "Federal Assistance," Sections I and II completed by applicant, used as the cover sheet for each proposal.

(2) A project summary of no more than one typed, single-spaced page providing the following specific information:

(i) Identification of the water or water-related problems and the problem-solution approach;

(ii) Identification of the proposed scientific contribution of the problem solution;

(iii) Concise statement of the specific objectives of the project;

(iv) Identification of the approach to be used to accomplish the work; and

(v) Identification of potential users of the proposed work.

(3) Narrative information, as specified in the published program announcement, such as project title, project objectives, background information, research tasks, methodology to conduct the research task, the relevancy of the proposed project to water-resources problems, qualifications of the principal investigators and their organizations, and proposed budget with supporting information sufficient to allow evaluation of costs.

§ 402.11 Technology-development project applications.

(a) Grant awards will be used to support those portions of the program for which the principal purpose is other than as described in § 402.11(b). Program announcements and applications will be governed by the same procedures provided in § 402.10.

(b) If it is determined that the principal purpose of a planned award (or awards) is to acquire goods or services for the direct benefit or use of the Government, the action must be regarded as a procurement contract. A competitive solicitation prepared in accordance with applicable acquisition regulations will be issued to interested parties. Notification of the availability of any contract solicitation will be published in the Commerce Business Daily, unless waived in accordance with § 5.202 of the Federal Acquisition Regulation (FAR). Contracts may be awarded without full and open competition only if justified in accordance with FAR Subpart 6.3.

§ 402.12 Evaluation of applications for grants and contracts.

(a) *Grants.* (1) Each grant application will receive technical evaluations from Government and/or non-Government scientific or engineering personnel. Utilizing the criteria for evaluation identified in the applicable announcement, each reviewer will assign a technical score.

(2) Grant applications with low technical ratings will be screened out, and the remaining grant applications will be rank-ordered by review panels.

(3) USGS program officials will compile a single, consolidated rank-ordered list of the grant applications based on technical scoring, program needs and published priorities, and the available Federal funds.

(b) *Contracts.* Proposals for contract awards will be evaluated by a USGS panel. Contracts will be awarded according to procedures contained in the FAR, the Department of the Interior Acquisition Regulation, and in acquisition policy releases issued by the Department and by the USGS.

§ 402.13 Program management.

(a) After the conclusion of negotiations, the USGS will transmit a grant or contract-award document, as appropriate, setting forth the terms of the award.

(b) *Grants.* Recipients will be required to execute funded projects in accordance with OMB Circulars governing cost principles, administrative requirements, and audit, as applicable to

their organization type. In addition, OMB Circular A-67, Coordination of Federal Activities in the Acquisition of Certain Water Data, is applicable to awards under these programs.

(c) *Contracts.* Administrative requirements for performance of research contracts will be established in the contract clauses in conformance with applicable procurement regulations and other interior or USGS acquisition policy documents. OMB Circular A-67 will also apply to some contract awards under this program.

§ 402.14 [Reserved]

Subpart D—Reporting

§ 402.15 Reporting procedures.

(a) Grantees or contractors will be required to submit the following technical reports to the USGS address identified under the terms and conditions of each award.

(1) Quarterly Technical Progress Report. This report shall include a description of all work accomplished, results achieved, and any changes that affect the project's scope of work, time schedule, and personnel assignments.

(2) Draft Technical Completion Report. The draft report will be required for review prior to submission of the final technical completion report.

(3) Final Technical Completion Report. The final report and a camera-ready copy shall be submitted to the USGS within 90 days after the expiration date of the award and shall include a summary of all work accomplished, results achieved, conclusions, and recommendations. The camera-ready copy shall be prepared in a manner suitable for reproduction by a photographic process. Format will be specified in the terms and conditions of the award.

(4) Final Report Abstract. A complete Water-Resources Scientific Information Center Abstract Form 102 and National Technical Information Service Form 79 shall be submitted with the final report.

(b) Grantees or contractors will be required to submit financial, administrative, and closeout reports as identified under the terms of each award. Reporting requirements will conform to the procedures described in the Departmental Manual of the Department of the Interior at 505 DM 1-5.

(c) Contracts for technology-development projects may also require delivery of hardware items produced and/or specifications, drawings, test results, or other data describing the funded technology.

§§ 402.16-402.20 [Reserved]

Dated: May 6, 1986.

Wayne W. Marchant,

Assistant Secretary for Water and Science.

[FR Doc. 86-13010 Filed 6-9-86; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Approval of Amendments to the Utah Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of amendments to the Utah Permanent Regulatory Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On January 21, 1985, Utah submitted proposed program amendments for OSMRE's approval pertaining to the definitions of "adjacent area", "disturbed area", "mine plan area," and "permit area" and to the enforcement and penalty requirements applicable to surface mining operations. The public was invited to comment on these provisions for 30 days (50 FR 8148, February 28, 1985). In a letter to the State dated May 6, 1985, OSMRE requested additional information regarding certain of the amendment provisions submitted. On November 19, 1985, Utah submitted additional materials to address the concerns of OSMRE. The public was invited to comment on these additional materials for 15 days (51 FR 1519, January 14, 1986).

After providing opportunity for public comment and conducting a thorough review of the program amendments as submitted January 21, 1985, and revised November 19, 1985, the Director has determined that with one exception the amendments meet the requirements of SMCRA and the Federal regulations and is approving them.

This final rule is being made effective immediately in order to expedite the State program amendment process and to encourage the State to conform its program to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: June 10, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION:

I. Background on Program Approval

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program under SMCRA for the regulation of the surface coal mining operations in the State (46 FR 5899-5915).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899-5915). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 944.11, 30 CFR 944.12, 30 CFR 944.15 and 30 CFR 944.16.

II. Background on Proposed Amendments

On January 21, 1985, the Utah Division of Oil, Gas and Mining (DOGM) submitted proposed program amendments for OSMRE's approval (Administrative Record No. UT-351). The amendments included changes pertaining to the definitions of "adjacent area", "disturbed area", "mine plan area", and "permit area" and to the enforcement and penalty requirements applicable to surface mining operations.

On February 28, 1985, OSMRE sought public comment on whether the proposed modifications to the Utah permanent program listed above satisfied the criteria for approval of State program amendments set forth at 30 CFR 732.15 and 732.17 (50 FR 8148). In a letter to the State dated May 6, 1985, OSMRE informed the State of its concerns relating to certain of the proposed program amendments (Administrative Record No. UT-399). On November 19, 1985, Utah submitted additional material to respond to the concerns raised by OSMRE in its May 6, 1985 letter (Administrative Record No. UT 389).

On January 14, 1986, OSMRE reopened the comment period for 15 days on these revised provisions (51 FR 1519).

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, with one exception that the program

amendments submitted by Utah on January 21, 1985, with the revisions submitted on November 19, 1985, meet the requirements of SMCRA and 30 CFR Chapter VII as discussed below.

1. Definitions

The State replaced its previous definitions for "permit area", "adjacent area," and "disturbed area" with revised definitions that are virtually identical to the Federal definitions for those terms at 30 CFR 701.5. Accordingly, the Director is approving the State's amended definitions. In addition, Utah has deleted the definition for "mine plan area" and indicated that the terms "adjacent area", "affected area", and "permit area" which are defined in Utah's program will be used to delineate appropriate portions of surface or underground operations. OMSRE has determined that deletion of this definition does not render the Utah program less effective than the Federal regulations. The Federal rules do not include a definition for "mine plan area".

2. Enforcement and Penalty Requirements

Utah amended the following sections of its surface mining regulations: SMC 843.11, 843.15, 843.16, 845.12, 845.13 and 845.17, 845.18 and 845.19. These sections pertain to cessation orders, informal public hearings, Board review of citations, when a penalty will be assessed, point system for penalties, procedures for assessment of civil penalties-proposed assessment, procedures for informal assessment conference, and request for a formal hearing. In addition a new section SMC 843.20 pertaining to the compliance conference was added. The Director has determined that the revised enforcement provisions under section SMC 843.11, 843.15, 843.16 and 843.20 incorporate sanctions no less stringent than those set forth under section 521 of SMCRA and section 843 of OSMRE's regulations and contain the same or similar procedural requirements relating thereto with the exception discussed below. With respect to the penalty provisions under section SMC 845.12, 845.13, 845.17, 845.18 and 845.19, the Director has determined that the State's rules incorporate penalties no less stringent than set forth under section 518 of SMCRA and section 845 of the Federal regulations and contain the same or similar procedural requirements relating thereto.

With respect to the State's amended enforcement provisions, the following points require clarification.

(a) In reviewing the revisions to Utah regulation SMC 843.15(a) OSMRE determined that the State's special definition of "mining" under this section is less effective than the Federal definition for this term at 30 CFR 843.15(a) in that it does not include the processing, cleaning, concentrating, preparing, or loading of coal where such operations occur at a place other than the mine site. This issue also arose in the context of OSMRE's review pursuant to 30 CFR 732.17(d) and (e) of the State's program in light of changes to the Federal regulations since the Secretary's approval of the Utah program. OSMRE is currently in the process of preparing a final list of changes to the State program that are necessitated by changes to the Federal rules. Revision of the special definition of mining under SMC/UMC 843.15(a) is one of the items to be included in OSMRE's list of changes required as a result of revisions to the Federal regulations. Once final notification is provided to Utah of the program changes that are required, Utah will have sixty days to submit amendments to make the necessary program changes. Utah has advised OSMRE that it would prefer to amend its special definition of mining under SMC/UMC 843.15(a) to address the deficiency identified by OSMRE at the same time that it makes other changes to its regulations which are necessitated by changes in the Federal rules. Accordingly, the Director is not imposing a requirement on Utah as part of this rulemaking to revise its definition as the State has committed to doing this in a separate rulemaking action. OSMRE is not approving the definition of "mining" to the extent that it includes the above-mentioned activities.

(b) In its preliminary review of the amendments submitted by Utah, OSMRE determined that the State's provision at SMC 843.16(c) governing temporary relief proceedings was less effective than the Federal requirements in that it did not require the Board to hold a hearing in the locality of the permit area.

Section 525(c)(1) of SMCRA provides that a hearing on a request for temporary relief shall be held in the locality of the permit area.

In its November 19, 1985 submission to OSMRE, Utah included a revised version of this regulation which provides that upon written application by the operator or an interested party the Board or hearing examiner may hold a hearing at the site of the operation or within such reasonable proximity to the site that any viewings of the site can be conducted during the course of the public hearing. The Director is approving the State provision as submitted on November 19, 1985, on the assumption that if an operator or an interested person requests that a hearing be held at the site of the operation or within close proximity, the Board or hearing examiner will grant the request. OSMRE has advised Utah that the Director's approval is being made on the basis that the State will exercise its discretion under SMC 843.16(c) in a manner consistent with section 525(c)(1) of SMCRA. That is, the State will hold a temporary relief hearing in the locality of the permit area if requested. The State has agreed to the Director's approval of SMC 843.16(c) on this basis.

IV. Public Comment

OSMRE held two comment periods on these amendments as explained above under "Background on Proposed Amendments". OSMRE received one comment on the amendment from the Bureau of Land Management (BLM). BLM's comments pertained to responsibilities of Federal agencies on Federal lands that could have a bearing on the State's implementation of its enforcement and penalty assessment procedures. The Director has determined that BLM's comments do not have a direct bearing on his decision to approve or disapprove the State's amendments and, therefore, are outside the scope of this rulemaking.

V. Director's Decision

Based on the above findings and clarifications the Director is approving the amendments to the Utah program submitted on January 21, 1985, with the revisions submitted by the State on November 19, 1985.

As discussed above one deficiency does exist which Utah will be required to correct when OSMRE notifies the State of changes to its program that are required as a result of changes in the Federal regulations since the Secretary's approval of the Utah program.

The Director is amending Part 944 of 30 CFR Chapter VII to implement this decision.

VI. Additional Determination

1. Compliance With the National Environmental Policy Act

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

2. Compliance With the Regulatory Flexibility Act

The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Compliance With Executive Order No. 12291

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining Reclamation and Enforcement exemption from sections 3, 4, and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review of OMB is not needed for this program amendment.

4. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 944

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

Dated: June 4, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

PART 944—UTAH

Part 944 of Title 30 is amended as follows:

1. The authority citation for Part 944 continues to read as follows:

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

2. Section 944.15 is amended by adding a new paragraph (i) to read as follows:

§ 944.15 Approval of amendments to State regulatory program.

* * * * *

(i) The following amendments to the Utah State program listed below which were submitted to OSMRE by Utah on January 21, and November 19, 1985 are approved effective June 10, 1986. Revision of the definitions for "adjacent area", "disturbed area" and "permit area"; Deletion of the definition for "mine plan area"; Revisions to SMC 843.11, 843.15, 843.16, 845.12, 845.13, 845.17, 845.18, and 845.19 with the exception of the definition of "mining" to the extent that it excludes the processing, cleaning, concentrating, preparing, or loading of coal at a place other than the mine site; Adoption of SMC 843.20.

[FR Doc. 86-13044 Filed 6-9-86; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3025-6]

Approval and Promulgation of Implementation Plans, Louisiana; Visibility Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves the new source review (NSR) and monitoring plan for visibility in a revision to the Louisiana State Implementation Plan (SIP). This action is a result of a proposed rulemaking on May 15, 1984 (49 FR 20519), in which EPA proposed to approve the Louisiana SIP revision contingent upon the State meeting the provisions of 40 CFR 51.305 (visibility monitoring) and 51.307 (visibility NSR). No comments were received on the proposal.

The Governor of Louisiana submitted a modified SIP Revision for Protection of Visibility on October 9, 1985. Visibililty NSR regulations were submitted by the Governor on August 23, 1985. Review of the plan and regulations indicated that Louisiana has met the criteria of 40 CFR 51.305 and 51.307.

EFFECTIVE DATE: This action will be effective on July 10, 1986.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-AN), 1201 Elm Street, Dallas, Texas 75270

Louisiana Department of Environmental Quality, Air Quality Division, 625 North 4th Street, Baton Rouge, Louisiana 70804.

FOR FURTHER INFORMATION CONTACT: John Crocker, Air Programs Branch, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270, telephone (214) 767-9850 or (FTS) 729-9850. Reference Docket File Number LA-86-1.

SUPPLEMENTARY INFORMATION:

Background

Section 169A of the Clean Air Act, 42 U.S.C. 7491, requires visibility protection for mandatory Class I Federal areas where EPA has determined that visibility is an important value. ("Mandatory Class I Federal areas" are certain national parks, wilderness areas, and international parks, as described in section 162(a) of the Act, 42 U.S.C. 7472(a), 40 CFR 81.400-937.) Section 169A specifically requires EPA to promulgate regulations requiring certain states to amend their State Implementation Plans (SIPs) to provide for visibility protection.

On December 2, 1980, EPA promulgated the required visibility regulations in 45 FR 80084, codified at 40 CFR 51.300 *et seq.* It required the states to submit their revised SIPs to satisfy those provisions by September 2, 1981. (See 45 FR 80091, codified in 40 CFR 51.302(a)(1).) That rulemaking resulted in numerous parties seeking judicial review of the visibility regulations. In March 1981, the Court stayed the litigation pending EPA action on related administrative petitions for reconsideration of the visibility regulations filed with the Agency.

In December 1982, the Environmental Defense Fund (EDF) filed suit in the U.S. District Court for the Northern District of California alleging that EPA failed to perform a nondiscretionary duty under section 110 of the Act to promulgate visibility SIPs. A negotiated settlement agreement between EPA and EDF required EPA to promulgate visibility SIPs on a specific schedule. It required EPA to propose to incorporate federal regulations in states where SIPs are deficient with respect to the 1980 visibility new source review and monitoring regulations, 40 CFR 51.307 and 51.305, respectively. However, the settlement allows a state an opportunity to avoid federal promulgation if it submits a SIP by May 6, 1985. Louisiana is one of the states listed in 40 CFR 51.300(b)(2) as required to develop a plan for visibility protection.

In a proposed rulemaking on May 15, 1984, EPA proposed approval of Louisiana's Visibility Protection Plan contingent upon the State meeting the provisions of 40 CFR 51.305 and 51.307. No comments were received on the proposal. On October 23, 1984 (49 FR 42670), EPA articulated the minimal approval requirements regarding new source review and visibility monitoring Subsequently, the EPA Region 6 Office requested Louisiana to revise its Visibility Protection Plan according to those requirements.

On October 9, 1985, the Governor of Louisiana submitted a revised SIP Revision for Protection of Visibility for monitoring and new source review. Visibility NSR regulations were submitted by the Governor on August 23, 1984. EPA has reviewed the State's submittal and developed an evaluation report.[1] This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 Office and the other addresses listed above.

Louisiana has only one mandatory Class I area which is the Breton Bird National Wildlife Refuge. The refuge consists of a chain of small islands and surrounding water stretching from near the mouth of the Mississippi River to the Mississippi Coast near the City of Gulfport, Mississippi. No other Class I areas currently exist in the State. The SIP commits the State to visibility protection consistent with the Clean Air Act to be afforded within the refuge area boundary. The SIP is to be reviewed every three years and revised as necessary.

Visibility Monitoring Strategy

40 CFR 51.305 requires all states with visibility protection areas to have a monitoring strategy for evaluating visibility in any mandatory Federal Class I area by visual observation or other appropriate monitoring techniques. The purposes of this requirement are to generate data for evaluating visibility impairment trends, determine potential impacts of new sources, assess the effectiveness of the visibility protection program, and identify major contributing sources. These purposes can be adequately addressed by determining the background visibility protection areas and documenting the extent of any visibility impairment that can be attributed to a source or small group of sources.

Visibility impairment is the human perception of the effects of natural or man-made conditions which reduce visual range or contrast, or coloration change. Thus, a visibility monitoring program should identify these effects as well as differentiate man-made effects from natural conditions. The program could generate various types of data such as reports from human observers, photographs, and/or automated instruments. The minimum data collection technique that 40 CFR 51.305 requires is visual observation. However, other more objective techniques are available. (See "Interim Guidance for Visibility Monitoring", Office of Air Quality Planning and Standards, November 1980 (EPA 450/2-80-082)).

The monitoring section of the Louisiana Visibility Protection Plan consists of three data collection methods:

(1) Monitoring by sources proposing to locate or modify in an area where emissions may impact Class I areas,

(2) Periodic review every three years of the source emissions inventory to ensure that minor sources (i.e., those that are small enough not to be subject to NSR requirements) do not collectively impair visibility, and

(3) Periodic discussions with the Federal Land Manager for the area.

The objective of the visibility monitoring program is to prevent future visibility impairment via New Source Review. (The State Plan indicated that no impairment of visibility exists in the refuge.) Monitoring by sources proposing to locate or modify in the locale where emissions may impact Class I areas will provide data for the assessment of impact upon background conditions and for trend analyses for that Class I area.

The Louisiana monitoring section of the Visibility SIP consists of a statement of objectives, a discussion of the data collection methods, and a provision for future plan revisions. These provisions meet EPA criteria and EPA is approving this phase of the plan.

New Source Review

40 CFR 51.307 requires states to review new major stationary sources and major modifications prior to construction to assess potential impacts on visibility in any visibility protection area, regardless of the air quality status of the area in which the source is located. That is, sources locating in attainment areas and nonattainment areas must undergo visibility new source review (See 40 CFR 51.307 (a) and (b)(2), respectively). These requirements ensure that (1) the visibility impact review is conducted in a timely and consistent manner, (2) the reviewing authority considers any timely FLM analysis demonstrating that a proposed source would have an adverse impact on visibility, and (3) there is public availability of the permitting authority's conclusion.

Visibility NSR is addressed in two parts: one addresses major stationary sources subject to the Prevention of Significant Deterioration (PSD) regulations (40 CFR 52.21) which apply to attainment areas, and the second addresses major sources in nonattainment areas.

For all major PSD stationary sources:

(1) The State must notify the FLM in writing not more than 30 days after receiving a permit application or advance notification of application from a proposed source that may impact a visibility protection area.

(2) This notification must take place at least 60 days prior to the public hearing on the application and must contain any analysis of the potential impact of the proposed source on visibility.

(3) The State must consider any analysis concerning visibility impairment performed by the FLM and received not more than 30 days after the notification.

(4) If the State does not concur with the FLM's analysis that adverse visibility impairment will result from the proposed source, the State must provide in its notice of public hearing on the application an explanation of its decision or give notice as to where the explanation can be obtained.

(5) The State must have the ability to require a permit applicant to monitor visibility in or around the visibility protection areas.

For major sources in nonattainment areas:

(1) A major source or modification that may impact a visibility protection area must provide a visibility impact analysis.

(2) The State must ensure that the sources' emissions are consistent with the national visibility goal. The State may consider the cost of compliance, the time for compliance, the energy and non-air quality environmental impacts of compliance, and the useful life of the source.

(3) The State must follow the same procedures outlined in the PSD items 1-5 above in conducting nonattainment area visibility reviews.

Items 1 through 5 of major PSD stationary sources and items 1 through 3 for major sources in nonattainment areas are the procedural steps in visibility review as defined in 40 CFR 52.27(d) and 52.28 (c) and (d), respectively. (40 CFR 52.27 and 52.28 were proposed in 49 FR 42670 and finalized in 50 28544.)

The Louisiana visibility SIP has incorporated into the NSR section its existing permit requirements for any source locating in an attainment area. Such review is specified in "Part V, Prevention of Significant Deterioration of Air Quality" in section 90.0 of the Louisiana Air Quality Regulations.

The approach taken by Louisiana to adopting new source review regulations was to amend the "Part V, Prevention of Significant Deterioration of Air Quality" regulations, section 90.0 of the Louisiana

[1] Evaluation Report for the Louisiana Visibility Protection Plan, January 1986.

Air Quality Regulations adopted by the Secretary of the Louisiana Department of Environmental Quality on May 23, 1985, and submitted by EPA by the Governor on August 23, 1985. In amending these regulations, the Louisiana Department of Environmental Quality adopted definitions equivalent to those in 40 CFR 51.301 [Protection of Visibility SIP requirements]; and adopted regulations equivalent to the revisions to the Federal PSD regulations pertaining to sources locating near Class I areas which were proposed in the October 23, 1984, **Federal Register**. As adopted, Louisiana Regulation 90.15(5) contains authority to require new sources to monitor visibility; and Regulation 90.16 (1) and (3) contain revised requirements for Federal Land Manager notification and visibility analysis.

The State has some parishes designated as nonattainment for ozone only. Louisiana Regulation section 90.2(15) lists the nonattainment areas in the State. The ozone SIP includes regulations to impose lowest achievable emission rate (LAER) for new and modified sources in nonattainment areas, as specified in section 6.3.8 of the Louisiana Air Quality Regulations. This will ensure that the visibility will not be impaired in the Class I area. Appropriate consultation with the Federal Land Manager will be ensured as specified on page 79 of "Louisiana SIP Revisions for Ozone Abatement." Further, section 6.3.6 of the Regulations will assure that a visibility impact analysis is performed as well as allow the State to require monitoring of visibility by new sources that may affect visibility in the mandatory Federal Class I area.

The SIP commits to the notification time frame requirements to the FLM. It commits to provide an explanation of its decision should it disagree with the FLM's assessment on a proposed source's impact on visibility and to give notice as to where that explanation can be obtained.

FLM Coordination

Under section 165(d) of the Clean Air Act, the FLM is given an affirmative responsibility to protect air quality related values, including visibility, in lands within a Class I area. The visibility regulations allow the FLM the opportunity to identify visibility impairment and to identify elements for inclusion in monitoring strategies. The FLM must maintain these areas consistent with congressional land use goals.

The State of Louisiana has accorded the FLM opportunities to participate and comment on its visibility SIP and regulations. Comments by the FLM were considered and incorporated where applicable. The State has committed in the SIP to consult continually with the FLM on the review and implementation of the visibility program. Further, the State has agreed to notify the FLM of any advance notification or early consultation with a major new or modifying source prior to the submission of the permit application.

Current Plan Status

At present, Louisiana has partial authority through delegation for technical and administrative review of the Federal PSD program, 40 CFR 52.21, which meets the requirements of 40 CFR 51.307. On August 23, 1985, the Governor of Louisiana submitted to EPA a SIP revision for Prevention of Significant Deterioration and Part V, Prevention of Significant Deterioration, section 90.0 of the Louisiana Air Quality Regulations. The EPA proposed approval of the PSD SIP revision in a separate **Federal Register** notice on April 17, 1986 (See 51 FR 13027). The State PSD regulations are equivalent to the Federal PSD and visibility new source review regulations (40 CFR 52.21, 40 CFR 51.24, and 40 CFR 51.307(a)). These modifications also meet, in part, Louisiana's commitments to visibility protection. Consequently, when EPA finally approves the State PSD regulations, the State will still have an approved Visibility Protection Plan.

The State PSD regulations also commit the State to specific consultation procedures with the Federal Land Manager when a proposed major source or major modification may affect visibility in madatory Class I Federal areas. These procedures are consistent with the Federal requirements of 40 CFR 51.307(a) and meet, in part, the State's requirements for visibility protection.

Final Action

By this notice, EPA is approving the Louisiana SIP Revision for Protection of Visibility as meeting the requirements of 40 CFR 51.305 and 51.307 and the criteria discussed in 49 FR 42670. (One should reference the October 23, 1984, 49 FR 42670, for additional information). The SIP commits to a 3 year review period at which time needed changes would be made. The SIP, therefore, has established the commitment to review the visibility requirements listed in 40 CFR Part 51 Subpart P—Protection of Visibility. The SIP is still deficient for all the other requirements of Subpart P (except 51.305 and 51.307) which should be addressed within the proper time frame after EPA promulgation or rulemaking.

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 (August 11, 1986). This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

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

Dated: May 27, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

40 CFR, Chapter 1, Part 52, is amended as follows:

Subpart T—Louisiana

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.970 is amended by adding paragraph (c)(43) as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(43) On October 4, 1985, the Governor submitted a revision entitled, "Protection of Visibility for Mandatory Class I Federal Areas," July 12, 1985. This submittal included new source review and visibility monitoring strategy as adopted by the Secretary of the Louisiana Department of Environmental Quality in October 1985.

[FR Doc. 86–12538 Filed 6–9–86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[EPA Number KS 1588; A-7-FRL-3029-5]

Designation of Areas for Air Quality Planning Purposes, State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Section 107(d) of the Clean Air Act, as amended, provides for the designation or areas as either attainment, nonattainment, or unclassified with respect to the National Ambient Air Quality Standards (NAAQS). Today's action approves the

State's request for redesignation of Wyandotte County with respect to total suspended particulate matter (TSP). After today's action, the secondary TSP nonattainment area becomes attainment and the primary TSP nonattainment area becomes a secondary nonattainment area.

EFFECTIVE DATE: July 10, 1986.

ADDRESSES: Copies of the State submission are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and Kansas Department of Health and Environment, Bureau of Air Quality and Radiation Control, Forbes Field, Topeka, Kansas 66620.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (913) 236-2893, FTS 757-2893.

SUPPLEMENTARY INFORMATION: In response to section 107(d) of the Clean Air Act, as amended, EPA and the State of Kansas designated all areas of the State as attaining the NAAQS, not attaining the NAAQS, or having insufficient data upon which to make a determination (unclassified). A nonattainment area is one in which the air quality is worse than a standard. An unclassified area is one for which there is insufficient data to determine whether an area is attainment or nonattainment. The areas of the State which are nonattainment for one or more pollutants are identified at 40 CFR Part 81, Subpart C.

On March 3, 1978 (43 FR 8964), EPA designated portions of Wyandotte County, Kansas, nonattainment with respect to the primary and secondary TSP standard. The remainder was classified attainment with respect to the TSP standards. The attainment status of Wyandotte County (Kansas City), Kansas, is found at 40 CFR 618.17. The primary TSP nonattainment area is described as most of the area between I-635 and the Missouri State line. The secondary TSP nonattainment area is the area extending about three miles west of I-635. The primary standard for TSP is an annual geometric mean value of 75 $\mu g/m^3$ not to be exceeded and a 24 hour value of 260 $\mu g/m^3$ not to be exceeded more than once per year. The secondary NAAQS for TSP is a 24-hour value of 150 $\mu g/m^3$ not to be exceeded more than once per year.

Under the requirements of Part D of the Act, States were required to develop and submit plans to attain air standards in those areas where NAAQS were violated. The State of Kansas submitted a plan to control TSP emissions in Wyandotte County on March 10, 1980. This plan was approved on April 3, 1981 (46 FR 20170).

By letter on June 22, 1984, the Kansas Department of Health and Environment (KDHE) requested that EPA redesignate that part of Wyandotte County designated secondary nonattainment for TSP to attainment and that area designated primary nonatttainment for TSP to secondary nonattainment. Included with the request was a reasonable further progress report showing that TSP emissions reductions had occurred as a result of enforcement of the Part D plan revision. Air quality data for 1982 and 1983 (eight quarters) showed no violation of the primary TSP NAAQS in the designated primary TSP nonattainment area and no violations of the secondary TSP NAAQS in the designated secondary TSP nonattainment area. However, TSP data for the first six months of 1984 had a geometric mean value of approximately 100 $\mu g/m^3$ at one monitor site in the primary nonattainment area. Because of this high value, EPA advised the State that action on its redesignation request would be delayed until all 1984 TSP data were available for analysis. On March 21, 1985, KDHE provided TSP air quality data for Wyandotte County for 1982, 1983, and 1984. These data show no violations of the primary TSP NAAQS in the primary TSP nonattainment area and no violation of the secondary TSP NAAQS in the designated secondary nonattainment area. Thus, KDHE provided data for three years (12 quarters) showing that the primary TSP NAAQS were not violated in the primary nonattinment area and that there were no violations of the secondary TSP violations in the designated secondary TSP nonattainment area.

EPA's redesignation policy under section 107 of the Act was summarized in an April 21, 1983 memorandum from Sheldon Meyers. Generally, eight quarters (two years) of monitoring data showing no violations, plus evidence that the EPA-approved control strategy has been implemented, are required to support redesignation requests for areas having an approved Part D control strategy. The most recent four quarters of monitoring data may be used if dispersion modeling shows that the SIP strategy is sound, and if actual enforceable emission reductions have occurred.

This policy was amplified in a September 30, 1985 memorandum from Gerald Emison. In addition to presenting the required consecutive quarters showing no violations, TSP redesignations for areas with less than a fully approved control strategy must be supported by additional assurances that emissions will not rise in the future so much as to cause a violation of the standards.

Since these portions of Wyandotte County have a fully approved control strategy, only the requirements of the Meyers memorandum apply here. As explained in greater detail in an EPA support memorandum dated March 28, 1986, here there has been an adequate showing that the EPA-approved control strategy has been implemented and that the improvement in air quality is attributable to it. KDHE submits annual reasonable further progress reports for all designated nonattainment areas. These reports indicate emissions reductions which result from efforts requiring installation of control devices and other steps, including enhanced street cleaning, which implement the approved Part D plan. Such reports include TSP for Wyandotte County. Those reports and the redesignation request contain a showing that the improvement in air quality is attributable to implementation of the requirements and commitments in the Part D plan, not the result of economic downturn or some other temporary occurrence.

The policy also requires a showing that improved air quality is not the result of dispersion techniques. As indicated previously, the redesignation request is based, in large part, on a showing that the air quality improvement is due to enforceable emission limitations. EPA and the State will be reviewing sources to determine that the regulatory requirements under section 123 are met. However, EPA is satisfied that improved air quality is not a result of the use of dispersion techniques.

EPA believes the State of Kansas has satisfied the redesignation requirements under the relevant provisions of the Clean Air Act, sections 107(d) and 171(2). EPA proposed approval of the request to redesignate Wyandotte County in the **Federal Register** on July 31, 1985 (50 FR 30962).

Summary of Public Comments

The Region VII office received no comments during the 30-day comment period.

Action

EPA approves the State request to redesignate Wyandotte County as follows: all of Wyandotte County west

of I-635 is redesignated attainment with respect to the TSP standards; Wyandotte County between I-635 and the Missouri state line is redesignated nonattainment with respect to the secondary TSP standards.

EPA has examined this redesignation action and finds that it will have no substantive effect on the stringency of the Kansas SIP.

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

Under section 207(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of date of publication. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: June 2, 1986

Lee Thomas,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

§ 81.317 [Amended]

2. In § 81.317 the Kansas TSP table is amended by revising the entry for Wyandotte County to read as follows:

§ 81.317 Kansas.

KANSAS—TSP

Designated area (County)	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * * * *				
Wyandotte County:				
A. Most of the area between I-635 and the Missouri state line.	X			
B. Remainder of County				X
* * * * *				

[FR Doc. 86-13030 Filed 6-9-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

List of Communities Eligible for the Sale of Flood Insurance; Michigan, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agency or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Deputy Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Michigan:				
Delta	Ford River, township of	260052A	Apr 4, 1986, emerg. Apr. 4, 1986, reg	Apr 3, 1978
Mackinac	Marquette, township of	260750—New	Apr 4, 1986, emerg	
Do	St Ignace, city of	260444	do	
Emmet	West Traverse, township of	260721A	do	Nov. 13, 1981
Missouri St Louis	Maryland Heights, city of	290889—New	do	
Nebraska: Washington	Washington, village of	315496—New	do	
Texas:				
San Jacinto	Coldspring, city of	481599—New	do	
Jasper	Unincorporated areas	481080A	do	May 17, 1977
Michigan:				
Delta	Bay de Noc, township of	260685	Apr. 7, 1986, emerg	
Sanilac	Delaware, township of	260756—New	do	
Marquette	Marquette, township of	260758—New	do	
Alger	Onota, township of	260345	do	
Emmet	Readmond, township of	260755—New	do	
Wexford	Selma, township of	260757—New	do	
Utah: Salt Lake	Bluffdale, city of	490247—New	do	
Missouri: Newton	Granby, city of	290263B	Aug. 26, 1975, emerg., July 3, 1985, reg., July 3, 1985, susp., Apr. 4, 1986, rein.	Apr. 12, 1974, Nov. 7, 1975, & July 3, 1985
Iowa: *Plymounth	Unincorporated areas	190899B	May 6, 1980, emerg., Sept. 18, 1985, reg., Sept. 18, 1985, susp., Apr. 4, 1986, rein.	Oct. 25, 1977 & Sept. 18, 1985
Vermont: *Starksboro	Addison county	500172B	July 25, 1975, emerg., Dec. 4, 1985, reg., Dec. 4, 1985, susp., Apr. 10, 1986, rein.	Jan. 31, 1975, Oct. 8, 1976, & Dec. 4, 1985
South Carolina: Georgetown	[1] Pawleys Island, town of	450251—New	Feb. 26, 1971, emerg., Mar. 1, 1984, reg	
California:				
[2] Calaveras	Unincorporate areas	060633A	Apr. 9, 1986, emerg	Nov. 29, 1977
[2] Tuolumne	do	060411A	do	Apr. 18, 1978
Riverside	Moreno Valley, city of	060711—New	Apr. 16, 1986, emerg	
Tennessee: Lewis	Hohenwald, city of	470304	do	Sept. 24, 1976
Texas: Parker	Sanctuary, city of	481285	do	June 10, 1977
California: [2] El Dorado	Unincorporated areas	060040B	Apr. 9, 1986, emerg., Apr. 9, 1986, reg	Aug. 2, 1974 & Mar. 18, 1986
North Dakota: Mountrail	*Parshall, city of	380073A	Aug. 18, 1978, Emerg., Mar. 18, 1986, reg., Mar. 18, 1986, susp., Apr. 14, 1986, rein.	Nov. 29, 1974 & Mar. 18, 1986
Tennessee: Loudon	Greenback, city of	470303	Apr. 23, 1986, emerg.	Sept. 24, 1976
Wisconsin: La Crosse	West Salem, village of	550560	Apr. 17, 1986, emerg., Apr. 17, 1986, reg	Apr. 3, 1981 & Dec. 15, 1982
New Hampshire:				
Merrimack	Andover, town of	330104	May 12, 1976, emerg., Apr. 2, 1986, reg., Apr. 2, 1986, susp., Apr. 23, 1986, rein.	June 28, 1974, Nov. 8, 1977 & Apr. 2, 1986
Belknap	New Hampton, town of	330007B	May 14, 1976, emerg., Apr. 2, 1986, reg., Apr. 2, 1986, susp., Apr. 23, 1986, rein.	Mar. 8, 1974, Dec. 3, 1976, & Apr. 2, 1986
Michigan:				
Alger	Au Train, township of	260342	Apr. 25, 1986, emerg	
Mackinac	Clark, township of	260759—New	do	
Antrim	Elk Rapids, township of	260751—New	do	
Delta	Ensign, township of	260752—New	do	
Grand Traverse	Garfield, charter township of	260753—New	do	
Lake	Webber, township of	260754—New	do	
New York: Oswego	*Parish, township of	361546A	Dec. 9, 1976, emerg., Apr. 15, 1986, reg., Apr. 15, 1986, susp., Apr. 24, 1986, rein.	Dec. 27, 1974 & Apr. 15, 1986
Pennsylvania: Adams	*Union, township of	421261B	Mar. 17, 1976, emerg., Dec. 4, 1985, reg., Dec. 4, 1985, susp., Apr. 30, 1986, rein.	Dec. 6, 1974 & Dec. 4, 1985
Region V				
Ohio:				
Cuyahoga	Unincorporated areas	390766B	Apr. 2, 1986, suspension withdrawn	Jan. 30, 1981 & Apr. 2, 1986
Do	Marysville, city of	390548C	do	Mar. 22, 1974, Aug. 27, 1976, May 18, 1979 & Apr. 2, 1986
Region I				
Connecticut: Hartford	Simsbury, town of	090035C	Apr. 15, 1986, suspension withdrawn	Aug. 2, 1974, May 16, 1977 & Mar. 27, 1981
Rhode Island:				
Providence	Providence, city of	445406E	do	Dec. 15, 1970, July 1, 1974, Nov. 28, 1975, Apr. 16, 1975, July 23, 1976 & Apr. 15, 1986
Kent	West Warwick, town of	440007B	do	Apr. 13, 1973, Feb. 1, 1978 & Apr. 15, 1986
Region II				
New Jersey: Bergen	Oradell, borough of	340060C	do	June 15, 1973, Mar. 15, 1977, Feb. 1, 1980 & Apr. 15, 1986
Region III				
Pennsylvania: Cambria	Stonycreek, township of	420241	do	Dec. 28, 1973, Feb. 15, 1978 & Apr. 15, 1986
Region V				
Wisconsin: LaCrosse	LaCrosse, city of	555562B	do	Jan. 15, 1971, July 1, 1974, May 14, 1976 & May 15, 1985
Ohio: Medina	Seville, village of	390384B	do	Mar. 15, 1974, June 4, 1976 & Apr. 15, 1986
Region VI				
Texas: Denton	Shady Shores, town of	481135C	do	Mar. 18, 1877, May 11, 1982 & Apr. 15, 1986
Region VIII				
Colorado:				
Adams	Federal Heights, town of	080240A	do	July 11, 1975 & Apr. 15, 1986
Denver	Denver, city and county	080046B	do	Dec. 28, 1975 & Apr. 15, 1986

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Region IX				
California:				
Santa Cruz	Unincorporated areas	060353B	do	May 29, 1979 & Apr. 15, 1986
San Diego	Del Mar, city of	060288C	do	Feb. 22, 1974, Oct. 17, 1975, Aug. 15, 1983 & Apr. 15, 1986
Region I				
Maine: Cumberland	Brunswick, town of	230042B	Apr. 30, 1986. Suspension withdrawn	Nov. 1, 1974, June 14, 1977 & Jan. 3, 1986
Region II				
New York:				
Orange	Goshen, village of	361571B	do	June 24, 1977 & Apr. 30, 1986
Orange	Goshen, town of	360614B	do	Dec. 4, 1981 & Apr. 30, 1986
Region III				
Pennsylvania: Union	New Berlin, borough of	420833B	do	Feb. 22, 1974, July 2, 1976 & Apr. 30, 1986
Region IV				
Florida:				
Walton	Unincorporated areas	120317C	do	Feb. 21, 1975, Nov. 16, 1977 & Oct. 1, 1983
Bay	Parker, city of	120011B	do	Oct. 15, 1976, Aug. 1, 1980 & Apr. 30, 1986
Region V				
Illinois: Hancock	Unincorporated areas	170267C	do	Jan. 24, 1975, Feb. 20, 1976, Dec. 4, 1981 & Apr. 30, 1986
Region II				
New York:				
Onodaga	Fabius, town of	360577B	Apr. 30, 1986. Suspension withdrawn	Aug. 16, 1974
Hamilton	Hope, town of	361403B	do	Nov. 22, 1974, Sept. 3, 1976 & Apr. 30, 1986
Region IV				
Georgia: Worth	Poulan, city of	130197B	do	May 17, 1974, Feb. 6, 1976 & Apr. 30, 1986
Tennessee:				
Clay	Celina, city of	470032C	do	June 21, 1974, July 9, 1976, Jan. 25, 1980 & Apr. 30, 1986
Jackson	Gaineboro, city of	470096B	do	June 21, 1974 & Sept. 24, 1976
Region V				
Michigan: Berrien	Berrien Springs, village of	260330A	do	Aug. 1, 1975 & Apr. 30, 1986
Region VI				
Arkansas: Washington	Elm Springs, town of	050213B	do	Aug. 16, 1974, Nov. 14, 1975 & Apr. 30, 1986
Region VII				
Iowa: Crawford	Charter Oak, city of	190094A	do	June 4, 1976 & Apr. 30, 1986
Region I—Minimal conversions				
New Hampshire:				
Cheshire	Alstead, town of	330020B	Apr. 2, 1986. Suspension withdrawn	July 26, 1974, Jan. 7, 1977 & Apr. 2, 1986
Cheshire	Marlow, town of	330025B	do	Sept. 13, 1974, May 10, 1977 & Apr. 2, 1986
Coos	Shelburne, town of	330037A	do	Nov. 29, 1974 & Apr. 2, 1968
Grafton	Campton, town of	330048B	do	Apr. 5, 1974, Sept. 17, 1976 & Apr. 2, 1986
Grafton	Piermont, town of	330071A	do	Feb. 21, 1975 & Apr. 2, 1986
Rockingham	Nottingham, town of	330137C	do	June 28, 1974, Nov. 19, 1976, Sept. 7, 1979 & Apr. 2, 1986
Cheshire	Chesterfield, town of	330183B	do	Dec. 13, 1977, Dec. 31, 1976 & Apr. 2, 1986
Strafford	Strafford, town of	330196B	do	Feb. 28, 1975, Dec. 31, 1976 & Apr. 2, 1986
Merrimack	Newbury, town of	330226B	do	Jan. 31, 1975, Sept. 6, 1977 & Apr 2, 1986
Region VIII				
Colorado: Sedgwick	Julesburg, town of	080169B	do	May 24, 1974, Feb. 20, 1976 & Apr. 2, 1986
Region I—Minimal Conversions				
New Hampshire				
Grafton	Bethlehem, town of	330045B	Apr. 15, 1986. Suspension withdrawn	June 28, 1974, Mar. 25, 1977 & Apr. 15, 1986
Coos	Carroll, town of	330030B	do	Jan. 24, 1975, Nov. 12, 1976 & Apr. 15, 1986
Merrimack	Webster, town of	330236A	do	Jan. 17, 1975 & Apr. 15, 1986
Region II				
New York:				
Oswego	Albion, town of	361577B	do	Oct. 29, 1976 & Apr. 15, 1986
Jefferson	Antwerp, town of	361560B	do	Jan. 31, 1975, Jan. 9, 1976 & Apr. 15, 1986

[1] This is a newly incorporated community eligible 3-27-86 that was participating in the Regular Program as an unincorporated area of Georgetown County, South Carolina. The Town has adopted by reference the county's Flood Insurance Study and Maps for insurance and floodplain management purposes.

[2] Declared disaster areas.

*Minimal Conversions.

Code for reading fourth column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension, Rein.—Reinstatement.

Issued: June 2 1986.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 86-12984 Filed 6-9-86; 8:45 am]

BILLING CODE 6718-03-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1178

Missing Children, Use of Penalty Mail in Location and Recovery

AGENCY: National Endowment for the Humanities.

ACTION: Final rule.

SUMMARY: This final rule authorizes the National Endowment for the Humanities (NEH) to use penalty mail to assist in the location and recovery of missing children, and is required by Pub. L. 99-87 (August 9, 1985), 39 U.S.C. 3220.

EFFECTIVE DATE: July 10, 1986.

FOR FURTHER INFORMATION CONTACT: Tracy J. Joselson Esq., National Endowment for the Humanities, Office of the General Counsel, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, telephone (202) 786-0322.

SUPPLEMENTARY INFORMATION: This rule is issued pursuant to U.S.C. 3220(a)(2) which requires federal agencies to prescribe regulations under which penalty mail may be used in conformance with guidelines issued by the Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) pursuant to 39 U.S.C. 3220(a)(1), 50 FR 46622. In accordance with Pub. L. 99-87, this rule shall cease to be effective on February 9, 1988.

On April 4, 1986, the National Endowment for the Humanities (NEH) published in the **Federal Register**, 51 FR 11597-11598, a proposed rule for the use of penalty mail to assist in the location recovery of missing children. The National Endowment for the Humanities has received and carefully considered several comments concerning this proposed rule. One comment questioned whether NEH is publishing a single regulation or is authorizing subunits of the agency to establish their own regulations. The National Endowment for the Humanities is publishing a single agency wide rule. The National Endowment for the Humanities does not have any geographical subunits nor do its divisions have authority to promulgate regulations. Another comment asked what role various offices and divisions of NEH will play in implementing this rule. A third question asked what types of mailings the Endowment intends to use to disseminate information about missing children. The Chairperson of the National Endowment for the Humanities may direct the agency to use penalty mail to assist in the location and recovery of missing children when determined to be appropriate and cost effective. The Chairperson or his designee will review the types of mailings and the procedures and offices to be responsible for implementing this rule. Another comment asked whether priority will be given to mail sent within the U.S. or U.S. territories and possessions. The National Endowment for the Humanities was created by Congress to promote progress in scholarship in the humanities in the United States. As such, grants are ordinarily made to organizations based in the United States or to United States citizens. There are few instances where penalty mail is sent abroad. A final comment discussed the report required to be submitted to the Office of Juvenile Justice and Delinquency Prevention by June 30, 1987. The National Endowment for the Humanities is mindful of the requirement and shall comply fully.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They do not meet the criteria for major regulations.

Regulatory Flexibility Act Certification

I certify that under 5 U.S.C. 605(b) that the proposed rule will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

Reporting and Recordkeeping Requirements

These regulations impose no new reporting or recordkeeping requirements that must be cleared by the Office of Management and Budget pursuant to 44 U.S.C. 350 *et seq.*

List of Subjects in 45 CFR Part 1178

Administrative practice and procedure.

Dated: June 5, 1986.

Lynne Cheney,

Chairperson.

For the reasons set forth in the preamble, the National Endowment for the Humanities adds the following regulation at 45 CFR Part 1178:

PART 1178—USE OF PENALTY MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN

Sec.

1178.1 Purpose and scope.

1178.2 Withdrawal of information.

Authority: 39 U.S.C. 3220.

§ 1178.1 Purpose and scope.

(a) The Chairperson of the National Endowment for the Humanities (NEH) may direct the agency to use penalty mail to assist in the location and recovery of missing children. When determined to be appropriate and cost-effective, the National Endowment for the Humanities may print, insert or use any other effective method to affix pictures and biographical data relating to missing children on NEH mail. The contact person for matters related to the implementation of this part is Tracy J. Joselson, Esq. Office of the General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 786-0322.

(b) The National Center for Missing and Exploited Children will be the exclusive source from which the National Endowment for the Humanities will obtain photographic and biographical information for dissemination to the public.

(c) It is estimated that the National Endowment for the Humanities will incur no additional costs to implement this program during its initial year. This estimate is based on a review of Endowment mailings that would maximize dissemination of this information.

§ 1178.2 Withdrawal of information.

The National Endowment for the Humanities will withdraw or exhaust the supply of all materials bearing the photograph and biographical information of a missing child within a three month period from the date the National Center for Missing and Exploited Children receives notice that the child has been recovered or that the parents or guardian of the child have revoked permission to use the information. The National Center for Missing and Exploited Children will be responsible for immediately notifying the agency contact, in writing, of the need to withdraw or remove this material.

[FR Doc. 86-13037 Filed 6-9-86; 8:45 am]

BILLING CODE 7536-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Acceptance of FM Applications Proposing Short-Spaced Transmitter Sites

AGENCY: Federal Communications Commission.

ACTION: Policy Statement.

SUMMARY: Action taken herein formally eliminates the Commission's policy of eliciting amendments to short-spaced applications when at least one application to the proceeding has specified a fully-spaced site. The Commission has determined that such a policy is inconsistent with the application processing procedures adopted in MM Docket No. 84-750 which restricts the filing of amendments. The Commission will no longer extend this unique amendment opportunity formerly afforded short-spaced applicants.

EFFECTIVE DATE: April 18, 1986.

FOR FURTHER INFORMATION CONTACT: Jerome Robinson, Mass Media Bureau, (202) 632-3954.

SUPPLEMENTARY INFORMATION:

Modification of Commission Policy on Acceptance of FM Applications Proposing Short-Spaced Transmitter Sites

In a Memorandum Opinion and Order adopted April 15, 1986, acting upon applications of Donovan Burke and Wood River Public Broadcasting Corporation for a new FM station to serve Sun Valley, Idaho, the Commission eliminated its policy which elicits amendments to short-spaced applications when at least one of the applications to the proceeding has specified a fully-spaced site and the short-spaced applicant is unable to raise a substantial and material question of fact concerning the availability or technical feasibility of all other fully-spaced sites.

Prior to adoption of the *Report and Order* in MM Docket 84-750, 50 FR 19936 (1985), the Bureau would accept short-spaced applications for filing pursuant to 47 CFR 73.3566, if they contained a request for waiver of 47 CFR 73.207. In cases where at least one of the applicants in the proceeding specified a fully-spaced site, a waiver of § 73.207 would not be granted and the application would not be designated for hearing unless the applicant specifying a short-spaced site could raise a substantial and material question of fact concerning the availability or technical feasibility of all other, fully-spaced proposed sites. Short-spaced applicants not raising such a question were provided, pursuant to a unique policy established by the Commission in *Trend Broadcasting, Inc.*, 18 FCC 2d 749 (1969), a 30 day period within which to file a curative predesignation amendment specifying a fully-spaced site. Failure to timely do so resulted in summary dismissal of the application, which prevented further participation in the comparative proceeding.

In MM Docket No. 84-750, the Commission revised 47 CFR 73.3522 to restrict the filing of amendments to a 30 day period triggered by an application's appearance on a Public Notice announcing its acceptance for tender. Under the new processing system, an application is studied for acceptability after the 30 day amendment period. If found unacceptable, the application is returned. Resubmission of the application with a curative amendment would not afford it *nunc pro tunc* reinstatement, because no amendment that perfects the acceptability of an application is proper after the 30 day amendment period.

Because the effect of Docket 84-750 on this unique type of "Trend" amendment was not entirely clear, the Commission concludes that any application on file on or before the release date of this Order which would have, prior to adoption of MM Docket No. 84-750, been permitted to file a "Trend" amendment, shall be allowed to do so within 30 days of notice that their waiver requests have been denied. However, all applications filed after the release date of this order shall not be afforded the unique amendment opportunity established in *Trend Broadcasting, supra*.

For further information contact Jerome Robinson, (202) 632-3854.

William J. Tricarico,
Secretary.

[FR Doc. 86-13001 Filed 6-9-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 25

[Gen. Docket No. 84-689; Rm-4426; Gen. Docket No. 84-690]

Radiodetermination Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects errors in the Final Rule (Second Report and Order) in this proceeding concerning the Radiodetermination Satellite Service (51 FR 18444, May 20, 1986).

FOR FURTHER INFORMATION CONTACT: Fern Jarmulnek, (202) 634-1682.

Federal Communications Commission.

William J. Tricarico,
Secretary.

PART 25—[CORRECTED]

1. The second frequency entry under § 25.202(a)(2), page 18445, is corrected to read:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

(a) * * *
(2) * * *

2483.5-2500 MHz: Satellite-to-User Link

* * * * *

2. Section 25.392(f)(3), pg. 18446, is corrected to read:

§ 25.392 Licensing Provisions for the Radiodetermination Satellite Service.

* * * * *

(f) * * *
(3) Random access, time division multiplex techniques.

* * * * *

[FR Doc. 86-13002 Filed 6-9-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-320; RM-4743]

Radio Broadcasting Services; Woodstock, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 230A to Woodstock, Vermont, as that community's first FM channel at the request of Harvest Broadcasting Services. Since Woodstock is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been received. With this action, this proceeding is terminated.

DATES: Effective July 11, 1986; the window period for filing applications will open on July 14, 1986, and close on August 11, 1986.

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. 85-320 adopted May 7, 1986, and released June 4, 1986. 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.

Lists of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

2. Section 73.202(b) is amended by adding the following:

§ 73.202 Table of allotments.

* * * * *

(b) * * *

City	Channel No.
Woodstock, Vermont	230A

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-13003 Filed 6-9-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 25

[Federal Acquisition Circular 84-17]

Federal Acquisition Regulation

Correction

In FR Doc. 86-10218 beginning on page 16802 in the issue of Tuesday, May 6, 1986, make the following correction:

§ 25.405 [Corrected]

On page 16803, in the second column, in § 25.405(d), in the first line, "shall not specify" should read "shall specify".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Amendment 195-36; Docket PS-85]

Transportation of Hazardous Liquids; Gathering Lines in Rural Areas

AGENCY: Research and Special Programs Administration (RSPA).

ACTION: Correction of final rule.

SUMMARY: This document corrects a typographical error contained in a final rule on gathering lines that appeared at page 15007 in the **Federal Register** of Tuesday, April 22, 1986, (51 FR 15007). The correction changes a period to a semicolon at the end of one subdivision of a paragraph.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow, (202) 426-2392.

PART 195—[CORRECTED]

Accordingly, 49 CFR Part 195 is amended as follows:

1. The authority citation for Part 195 continues to read as set forth below.

Authority: 49 U.S.C. 2002; 49 CFR 1.53 and Appendix A to Part 1.

2. Section 195.1(b)(4) is corrected to read as follows:

§ 195.1 Applicability.

* * * * *

(b) * * *

(4) Transportation of petroleum in onshore gathering lines in rural areas;

* * * * *

Issued in Washington, D.C. on June 5, 1986.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 86-13024 Filed 6-9-86; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1047

Partial Exemption for Agricultural Commodities, Livestock and Fish; Technical Amendments; Corrections

AGENCY: Interstate Commerce Commission.

ACTION: Final rules, technical amendments; corrections.

SUMMARY: At 50 FR 40549, October 4, 1985, the Commission revised its list of livestock, fish, and agricultural items that fall within or outside of the exemption from Commission jurisdiction set forth in section 10526(a)(6) of the recodified Interstate Commerce Act, as amended, and in the Motor Carrier Act of 1980. That notice contained some errors in the revised § 1047.25 that this notice corrects.

FOR FURTHER INFORMATION CONTACT: John L. Chaney—(202) 275-7842.

SUPPLEMENTARY INFORMATION:

§1047.25 [Corrected]

49 CFR 1047.25, which was revised at 50 FR 40549, October 4, 1985, is corrected as follows:

1. Under "*Compost*" in the third column on page 40550, "Compost, composed of manure and straw sweepings, dried, distintegrated, and decomposed" should be corrected to be "Not exempt."

2. The heading "*Fish*" that precedes "Hermetically sealed . . ." in the third column on page 40551 is removed.

3. The items beginning with "Breaded, cooked or uncooked, frozen or fresh . . ." near the bottom of the second column on page 40551, and ending with the item that begins "Salmon eggs, frozed, not pickled or brined . . ." near the bottom of the third column on page 40551, are moved to follow the item that begins "*Fish*(including shell fish)General. Frozen, quick frozen . . ." near the bottom of the first column on page 40552.

4. The item that reads "Peller cores" in the third column on page 40552, is corrected to read "Peeler cores."

5. The heading "*Fruits and Berries*" in the first column on page 40553, and the items that follow in the first and second columns from "Dried, not further processed . . ." through "Raisins, very lightly coated with honey . . ." are removed.

6. The heading "*Fruits and Berries* in the third column on page 40553 is removed.

7. The heading "*Poultry and Poultry Products*" in the first column on page 40556 is removed.

8. The heading "*Tobacco*" in the third column on page 40556 following the item beginning "Cigars and Cigarettes . . ." is removed.

9. The heading "*Vegetables*" in the second column on page 40557 is removed.

Noreta R. McGee,

Acting Secretary.

[FR Doc. 86-13018 Filed 6-9-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 91

Migratory Bird Hunting and Conservation Stamp ("Duck Stamp") Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: The Service revises the regulations governing the conduct of the annual Migratory Bird Hunting and Conservation Stamp ("Duck Stamp") Contest. The amendments will improve the viewing, handling, and the printing quality for reproduction (as stamps) of entries, increase the entry fee, clarify the Government's liability for damage, and allow for processing of unclaimed entries. The changes allow the Service to handle the large number of entries more efficiently, and provide additional funding to cover operating costs associated with the contest. The dates and location of this year's contest are also announced, and the public is invited.

DATES: 1. This rule is effective July 1, 1986, the beginning of this year's contest.

2. This year's contest will be held on November 4 and 5, 1986, beginning at 9 a.m. each day.

3. Persons wishing to enter this year's contest may submit entries anytime after July 1, but all must be postmarked no later than midnight October 1.

ADDRESSES: 1. Requests for complete copies of the regulations and reproduction rights agreements should be addressed to: Migratory Bird Hunting and Conservation Stamp Contest, U.S. Fish and Wildlife Service, Interior Building Room 1025-A, Department of the Interior, Washington, DC 20240.

2. The contest will be conducted in the following location: Department of the Interior, Auditorium (C Street Entrance), 18th and C Streets NW., Washington, DC

FOR FURTHER INFORMATION CONTACT: Mr. Peter Anastasi (202-343-5508), Duck Stamp Coordinator, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: On April 17, 1986 (51 FR 13035) the Service published a proposed rule that would make several revisions to the annual Migratory Bird Hunting and Conservation Stamp Contest. The public comment period closed on May 19, 1986, with no comments on the proposal received. This rulemaking adopts the proposed revisions as final without change. Each of the revisions is discussed in the April proposed rule.

Analyses of these amendments to 50 CFR Part 91 have resulted in the Department determining that they are not major actions under the provisions of Executive Order 12291 and will not significantly effect a substantial number of small entities under the provisions of the Regulatory Flexibility Act, since entrants are individuals and not small entities as defined in 5 U.S.C. 601, et seq. The amendments do not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

The primary authors of this document are James E. Pinkerton and Peter A. Anastasi, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 91

Wildlife.

PART 91—[AMENDED]

Accordingly, 50 CFR Part 91 is amended as follows:

1. The authority citation for Part 91 continues to read as follows:

Authority: 5 U.S.C. 301, 31 U.S.C. 9701.

2. Section 91.12 is amended by replacing the amount "$35.00" with the amount "$50.00" and revising the last sentence to read as follows:

§ 91.12 Contestant eligibility.

* * * * *

Remittance should be by cashier's check or money order and made payable to the Fish and Wildlife Service (personal checks are not accepted).

3. Section 91.13 is amended by revising the first, third, and fourth sentences to read as follows:

§ 91.13 Technical requirements for design and submission of entry.

The design must be a horizontal drawing or painting seven inches high and ten inches wide. * * * No scrollwork, lettering, bird band numbers, signature, or initials may appear on the design. Each entry must be matted (over or under) with a nine inch by twelve inch white or off-white mat, not exceeding one-half inch in total thickness, and protected by an easy-to-remove covering of acetate.

4. Section 91.14 is amended by revising the fourth sentence to read as follows:

§ 91.14 Restrictions on subject matter of entry.

* * * The design must be the contestant's own original creation and may not be copied or duplicated, in whole or in part, from previously published art, including photographs. * * *

5. Section 91.17 is amended by replacing the last sentence with the two new sentences to read as follows:

§ 91.17 Property insurance for entries.

* * * The United States is not responsible for loss or damage not caused by its negligence or willfull misconduct. In no event shall the liability of the United States exceed the amount of the entry fee.

6. Section 91.31 is amended by adding the following new sentence at the end of the section:

§ 91.31 Return of entries after contest.

* * * After a period of one year from the date of the contest, all unclaimed entries will be destroyed.

Dated: May 27, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-12971 Filed 6-9-86; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 51, No. 111
Tuesday June 10, 1986

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

DEPARTMENT OF ENERGY

10 CFR Part 810

Unclassified Activities in Foreign Atomic Energy Programs

Correction

In FR Doc. 86-11666 beginning on page 19218 in the issue of Wednesday, May 28, 1986, make the following corrections:

1. On page 19221, in the first column, in § 810.7(a), in the first line, the last word should read "as"; and
2. On page 19221, in the second column in § 810.8(a), delete the entry "China", but retain the entry "China, People's Republic of".

BILLING CODE 1505-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

Recordkeeping Requirements for Deposits Placed by Deposit Brokers; Withdrawal of Proposed Rule

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Withdrawal of proposed rule.

SUMMARY: The FDIC is withdrawing from active consideration its proposed rule published on August 2, 1985 (50 FR 31380) which would have imposed new recordkeeping requirements for deposits placed by deposit brokers. The regulation would have amended Part 330 of the FDIC's regulations by requiring disclosure in bank account records of the identity and the amount of interest of each person having a beneficial ownership interest in funds placed by a deposit broker in order for the beneficial owner to obtain insurance coverage. The proposed rule is being withdrawn because the FDIC believes a case-by-case approach together with existing enforcement and monitoring techniques currently provides an effective means to control the misuse of brokered deposits.

DATE: This proposed rule is withdrawn effective June 10, 1986.

FOR FURTHER INFORMATION CONTACT: Patti C. Fox, Attorney, Legal Division, (202) 898-3743, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The purpose of the proposed amendments was to provide the FDIC with accurate and current information about the amounts of fully insured brokered deposits held by insured banks. The infomation was to be used to (1) assess the FDIC's insurance exposure in insured banks utilizing brokered deposits, (2) shorten the delay in determining the validity of insurance claims on such accounts thus speeding the insurance settlement process, (3) prevent fraud and abuse designed to increase insurance coverage, and (4) aid in the assessment of viable alternatives in a failing bank situation under the cost test of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)).

The FDIC has concluded that, at this time, the need for the proposal no longer exists. Although the recordkeeping provisions would aid the FDIC in the overall assessment of its insurance exposure and in weighing alternatives in a failing bank situation, as well as help speed the settlement process in a closed bank, there would be increased costs to banks to comply with the rule and to the FDIC in utilizing the collected information. The FDIC is concerned with the costs to banks in terms of personnel, time spent in determining what relationships fall within the rule, and the need for upgraded equipment to handle the volume of information. The FDIC would also experience an increase in costs and time to monitor compliance with the proposal.

In addition, the FDIC believes substantial revision of the definition of deposit broker would be required to avoid impinging upon existing fiduciary and agency relationships relied upon in commercial and legal transactions. Such revision would complicate both the rule and its interpretation as each potential brokered deposit relationship would have to be examined by a bank and the parties to determine if compliance with the rule was necessary. Revision might also be necessary to accommodate the secondary market in the sale of jumbo certificates of deposit. Restructing the proposal to address this market, while possible, would further complicate the rule which would lead to additional difficulties in implementation and interpretation.

The decision to withdraw the proposed rule does not mean, however, that the FDIC is no longer concerned with brokered deposits. The FDIC continues and will continue to monitor the use of brokered deposits through call reports, the monthly reporting requirements of 12 CFR Part 304 and the examination process generally. Abuses will be dealt with on a case-by-case basis until such time as other action may be necessary. Further, enforcement actions will continue to address limitations on brokered deposits where appropriate.

Accordingly, the FDIC hereby withdraws from active consideration the proposed amendment to Part 330 of Title 12 of the Code of Federal Regulations which was published on August 2, 1985 (50 FR 31380).

By order of the Board of Directors, this 3rd day of June, 1986.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-13043 Filed 6-9-86; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 86-AWA-18]

Proposed Alteration and Establishment of Jet Routes—Expanded East Coast Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of several Jet Routes located in the states of Virginia, Ohio, Pennsylvania and New York. The realignment alleviates congestion and compression of traffic in the airspace between New England and Florida. This proposal is part of the Expanded East Coast Plan (EECP) that is designed to make optimum use of limited airspace along the east coast corridor. This action would reduce enroute and terminal dealys in the Boston, New York, Miami,

Chicago and Atlanta areas; eliminate delays, save fuel, and reduce workload. The EECP will be implemented in several segments until completed.

DATE: Comments must be received on or before July 25, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffice Division, Docket No. 86-AWA-18, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

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

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

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA-18." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the description of J-30, J-34, J-134, J-149, J-162, J-518 and establish new Jet Route J-211. Currently, east coast traffic flows are so saturated and compressed in the New York, NY, metropolitan area that substantial delays are experienced daily. To alleviate congestion, the EECP would provide optimum use of Airspace along the heavily traveled coastal corridors between New York and Florida and reduce departure/arrival delays in the Boston, MA, Chcago, IL, Atlanta, GA, and New York Areas. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbood 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

1. The authority citation for Part 75 continues to read as follows:

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

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-211—[New]

From Johnstown, PA, via INT Johnstown 129°T(135°M) and Westminster, MD, 292°T(300°M) radials; to Westminster

J-30—[Revised]

From Nodine, MN, via Joliet, IL; Appleton, OH; INT Appleton 111°T(113°M) and Shawnee, VA, 277°T(285°M) radials; to Shawnee.

J-34—[Amended]

By deleting the words "Bellaire, OH; to Martinsburg, WV." and substituting the words "Bellaire, OH; Morgantown, WV; to Martinsburg, WV."

J-134—[Amended]

By deleting the words "INT Henderson 083° and Shawnee, VA,, 262° radials, to Shawnee:" and substituting the words "to Linden, VA."

J-149—[Revised]

From Armel, VA, via INT Armel 273°T(281°M) and Rosewood, OH, 116°T(117°M) radials; Rosewood; to Fort Wayne, IN.

J-162—[Revised]

From Dryer, OH, via Bellaire, OH; INT Bellaire 133°T(137°M) and Shawnee, VA, 277°T(285°M) radials; to Shawnee.

J-518—[Revised]

From Dryer, OH, via Indian Head, PA; to Baltimore, MD.

Issued in Washington, D.C., on June 3, 1986

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-12977 Filed 6-9-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 24942; Petition Notice PR 86-8]

Regulation of VFR Cruising Altitude or Flight Level; Rulemaking Petition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Petition for Rulemaking.

SUMMARY: This petition for rulemaking seeks to amend current regulations to decrease the potential for en route midair collisions by restricting the angle at which two VFR aircraft may approach each other at the same altitude to less than 90 degrees. The petitioner's amendment would require aircraft operations under VFR to be conducted at 600 or 400 feet above the cardinal altitude appropriate to the direction of flight, when the magnetic heading of the aircraft is between 270 degrees and 089 degrees or 090 degrees and 269 degrees respectively. (See Figure 1.)

DATE: Comments must be received on or before August 11, 1986.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. 24942, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be inspected in Room 916 weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, and arguments as they may desire. Comments should identify the docket and petition notice numbers and be submitted in triplicate to the address indicated above. All comments received on or before the closing date will be considered before taking action on the petition. It should be noted that this summary does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedures of Part 11 and reach a conclusion on the merits of the petition after it has had an opportunity to evaluate it carefully in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rulemaking action on the petition, appropriate rulemaking action, including an evaluation of the proposal, will be published.

Background/Supportive Information

The petitioner offers the following definitions:

The Relative Approach Angle or RAA is defined herein as: the angle formed between the intersecting paths of two aircraft on a collision course at the same altitude. Under FAR Section 91.109(a), the RAA's of two approaching VFR aircraft may be any angle from 0 degrees through 179 degrees.

Example A: Aircraft #1 is flying a magnetic course of 020 degrees; Aircraft #2 is flying a magnetic course of 170 degrees. If these two aircraft were approaching each other on a collision course, at the same altitude, their RAA would be 150 degrees.

Example B: Aircraft #1 is flying a magnetic course of 180 degrees; Aircraft #2 is flying a magnetic course of 280 degrees. If these two aircraft were approaching each other on a collision course, at the same altitude, their RAA would be 100 degrees.

Three velocities can be described when two aircraft approach each other on a collision course: Velocity #1 or VI of aircraft #1 along its magnetic course; Velocity #2 or V2 of aircraft #2 along its magnetic course; and Combined Approach Velocity of CAV at which each aircraft actually approaches the other.

The CAV of two aircraft on a collision course can be calculated if V1, V2, and the RAA of two approaching aircraft are known ((Figure 2)). It can be seen below in Tables 100-100 through 140-140 that as V1, V2, and/or the RAA increase the CAV also increases.

As flight visibility decreases, two aircraft may approach each other more closely before the need for an evasive maneuver is recognized by the pilots of either aircraft. Flight visibility thus determines the maximum distance of separation at which the pilots of two approaching aircraft may see and avoid a potential en route collision. To put it another way, even if an undistracted pilot is attentively searching the sky for an oncoming aircraft, this pilot will not see any oncoming aircraft until the distance between his aircraft and the one approaching is less than or equal to the flight visibility.

The Time Before a potential Impact or TBI of two aircraft on a collision course can be calculated if the CAV and separation distance between the two approaching aircraft are known. The CAV, as mentioned above, is a derived value—determined by knowing the RAA, V1, and V2. The separation distance, in contrast, is not a derived value but a chosen constant. When the separation distance is held constant the TBI's of two aircraft on a collision course can be calculated at any RAA ((Figure 3)); the separation distance chosen for calculating TBI's is described below.

Under FAR Section 91.105(a), no person may operate an aircraft under VFR (in controlled airspace above 1,200 feet above ground level and below 10,000 feet mean sea level) when the flight visibility is less than 3 statute miles. In view of this requirement, 3 Miles Remaining or 3 MR has been chosen as the standard reference separation distance at which TBI's were calculated below in Tables 100-100 through 140-140. Hereafter, the Time Before Impact of two aircraft on collision course with 3 Miles Remaining will be referred to as TBI-3MR.

Finally, the term "Basic Magnetic Course Determined Altitude" or BMCDA is herein introduced to refer specifically to the presently designated (and magnetic-course determined) odd or even "thousand-plus-500 foot" flight levels currently used by VFR traffic in level cruising flight above 3,000 feet above ground level and below 18,000 feet mean sea level (Section 91.109(a)).

Discussion

Petitioner offers the following for discussion:

With this amendment in effect, two approaching aircraft in level cruise flight at the same altitude would never be permitted to approach each other with an RAA of 90 degrees or greater. Thus, the most brief—and therefore most dangerous—TBI's would be eliminated.

Note that, as described above, all 100-foot upward adjustment of altitude are applied only to VFR aircraft flying with a "northerly" magnetic course heading—that is, aircraft flying from 270 degrees through 089 degrees. Also note that all 100-foot downward adjustments of altitude are applied only to aircraft flying with a "southerly" magnetic course heading—aircraft flying from 090 degrees through 269 degrees.

The correct application of these 100-foot altitude adjustments by pilots would not be difficult to remember and consistently apply. This is because the two words "Up" and "North" and the two words "Down" and "South" are commonly associated in our language. Thus, the conventional phrases "Up North" and "Down South" are applied easily to the altitude adjustments required by this proposal. Aircraft would go up 100 feet above any current BMCDA if cruising toward the North side of the magnetic compass (090 degrees through 269 degrees).

The addition and substraction of 100 feet to or from each currently used BMCDA would vertically separate VFR traffic at each "thousand plus 500-foot" level into two new cruising levels separated by 200 feet (100 feet above or below the BMCDA). Note that this amendment would not reduce the number of altitude options presently available to VFR pilots. Also note that this amendment would not introduce any substantial infringements on the flight levels of IFR traffic. This amendment would not interfere with the flow of IFR traffic because each new BMCDA ± 100-foot traffic level for VFR traffic would remain vertically displaced from proximate IFR traffic levels by 400 feet—a reduction of only 100 feet from the current 500-foot displacements.

Finally, depending on the RAA, the pilots of two approaching aircraft can see one or a combination of two approaching aircraft surfaces: [1] the lesser (in area) front-view aircraft surface, and/or, [2] the greater (in area) side-view aircraft surface. As the permitted RAA of two approaching aircraft is reduced, the pilots of each aircraft will see more of the greater (in area) side-view of each other's aircraft. Thus, under the proposed amendment to limit the potential RAA of two aircraft to less than 90 degrees, pilots would have more time to see an oncoming aircraft (as previously discussed) and, in addition, such oncoming aircraft would be more easily seen.

Examples

Petitioner offers the following examples to aid readers in understanding his proposal:

As shown below in Tables 100–100 through 140–140 (where aircraft velocities are held constant in each table) when the RAA of two approaching aircraft is increased toward 179 degrees the TBI of these two aircraft is reduced. Thus, as the RAA of two aircraft approaches 179 degrees, there is less time available to the pilots in such aircraft to recognize and avert a collision. In contrast, when the RAA of two approaching aircraft is decreased toward 0 degrees, the TBI of these two aircraft is augmented. Thus, as the RAA is reduced toward 0 degrees, more time is available for collision avoidance.

Example C: Aircraft #1 is flying a magnetic course of 200 degrees; Aircraft #2 is flying a magnetic course of 340 degrees. If these two aircraft were approaching each other on a collision course at 4,500 feet mean sea level, their RAA would be 140 degrees.

If both aircraft were traveling at 100 knots, the CAV (187.9 knots) and TBI–3MR (0.83 minutes) could be determined from Table 100–100. Note that at 3MR, the pilots of both aircraft would have only 50 seconds to recognize and avoid a collision—providing that either oncoming aircraft was seen as soon as it became visible.

Example D: Aircraft #1 is flying a magnetic course of 030 degrees; Aircraft #2 is flying a magnetic course of 070 degrees. If these two aircraft were approaching each other on a collision course at 3,500 feet mean sea level, their RAA would be 40 degrees.

If both aircraft were traveling at 100 knots, the CAV (68.4 knots) and TBI–MR (2.29 minutes) could be determined from Table 100–100. Note that at 3MR, the pilots of both aircraft would have 2.29 minutes to recognize and avoid a collision—providing that either oncoming aircraft was seen as soon as it became visible.

Cockpit duties or conversations can distract a pilot's lookout for an approaching aircraft. Furthermore, the risk for a midair collision is aggravated by increased RAA's. Notice in Tables 100–100 through 140–140 below that when the RAA of two approaching aircraft is 90 degrees or greater the TBI–3MR's are generally reduced to less than 60 seconds.

Finally, and in view of the above discussion, in order to enhance a pilot's ability to avoid midair collisions—and thus increase a pilot's margin for error—it is proposed that current Section 91.109(a) be modified to prohibit two VFR aircraft at the same altitude from approaching each other with an RAA of 90 degrees or greater when both aircraft are travelling in level cruising flight above 3,000 feet above ground level and below 18,000 feet mean sea level.

The proposal

The following is the Petitioner's proposed amendment:

Section 91.109, VFR Cruising Altitude or Flight Level. Except while holding in a holding pattern of 2 minutes or less, or while turning, each person operating an aircraft under VFR in level cruising flight more than 3,000 feet above the surface shall maintain the appropriate altitude or flight level prescribed below unless otherwise authorized by Act:

(a) When operating below 18,000 feet mean sea level and,

(1) On a magnetic course of zero degrees through 179 degrees, any odd *basic* thousand foot mean sea level altitude plus 500 feet; i.e., any odd *Basic*, Magnetic Course-Determined Altitudes or BMCDA's (such as 3,500, 5,500, or 7,500 feet mean sea level).

In Addition—

If specifically on a magnetic course of zero degrees through 089 degrees, 100 feet shall be added to the BMCDA (such "*BMCDA's plus 100*" include 3,600, 5,600, or 7,600 feet mean sea level).

If specifically on a magnetic course of 090 degrees through 179 degrees, 100 feet shall be subtracted from BMCDA (such "*BMCDA's minus* 100" include 3,400, 5,400, or 7,400 feet mean sea level).

(2) On a magnetic course of 180 degrees through 359 degrees, any even *basic* thousand foot mean sea level altitude plus 500 feet; i.e., any even *Basic* Magnetic Course-Determined Altitudes or BMCDA's (such as 4,500, 6,500, or 8,500 feet mean sea level).

In Addition—

If specifically on a magnetic course of 180 degrees through 269 degrees, 100 feet shall be subtracted from the BMCDA (such "*BMCDA's minus 100*" include 4,400, 6,400, or 8,400 feet mean sea level).

If specifically on a magnetic course of 270 degrees through 359 degrees, 100 feet shall be added to the BMCDA (such "*BMCDA's plus 100*" include 4,600, 6,600 or 8,600 feet mean sea level).

List of Subjects in 14 CFR Part 91

Aircraft altitude, Visual flight rules, Aviation safety.

Issued in Washington, DC, June 4, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement.

BILLING CODE 4910-13-M

FIGURE 1:

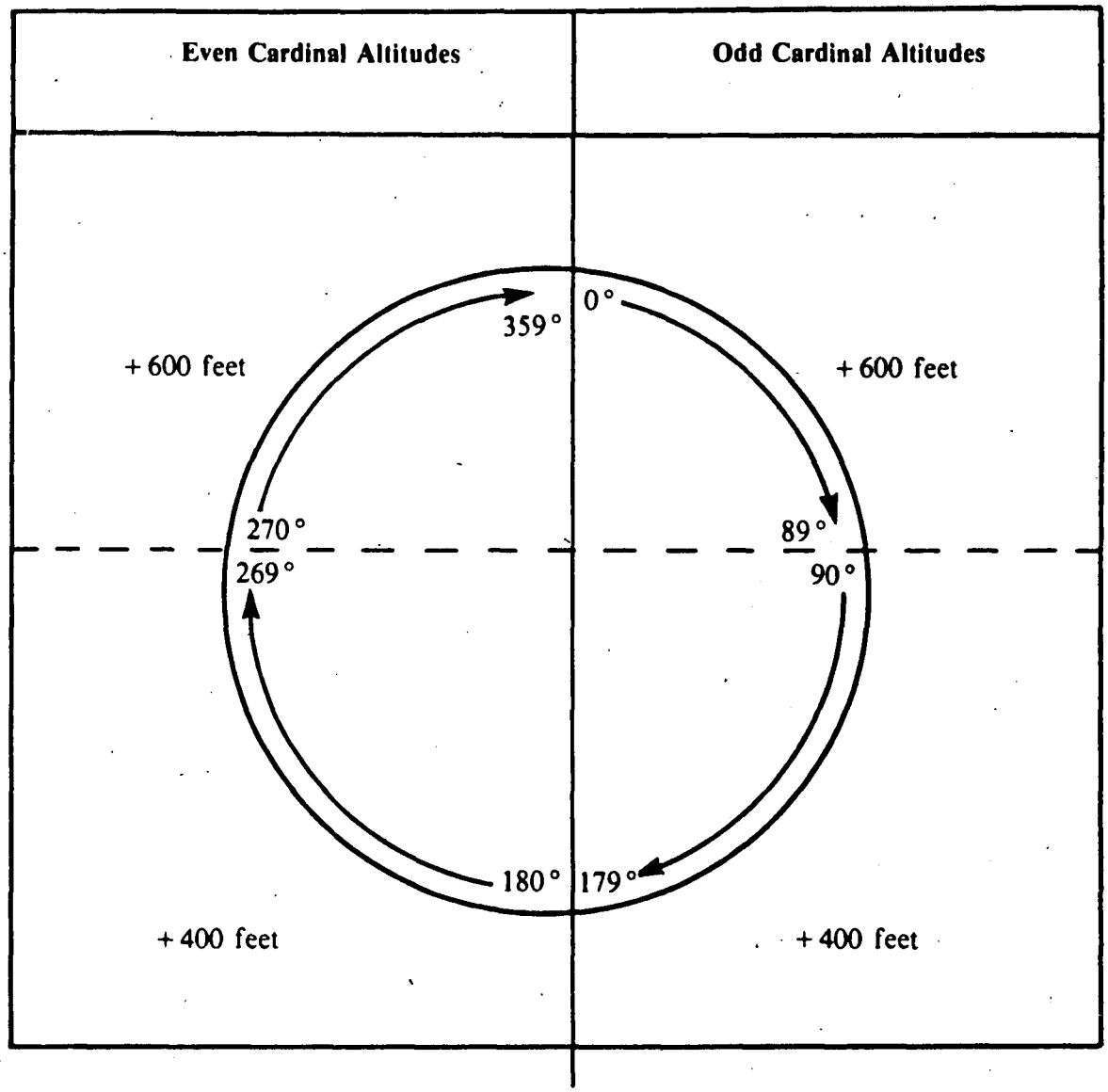
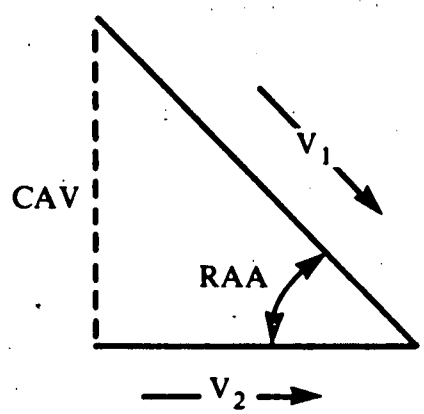

Even Cardinal Altitudes
Odd Cardinal Altitudes
+ 600 feet
+ 600 feet
0°
359°
270°
269°
89°
90°
180°
179°
+ 400 feet
+ 400 feet

FIGURE 2: The *Law of Cosines* was Used to Calculate the CAV.



$$CAV = [V_1^2 + V_2^2 - 2 \times V_1 \times V_2 \times \cos RAA]^{1/2}$$

Abbreviations Used: Relative approach angle in degrees [RAA]; velocity and direction of aircraft #1 [V_1]; velocity and direction of aircraft #2 [V_2]; combined approach velocity [CAV] (depicted as a vertical dashed line — is calculated by taking the square root of the value calculated from the above equation). The standard trigonometric equation used above is that referred to as the *Law of Cosines*. This equation can be found in text books of *Trigonometry* or *unabridged College Edition English* dictionaries.

FIGURE 3: Equation Used to Calculate *TBI-3MR*.

$$TBI\text{-}3MR = \frac{3\ \text{sm} \times 5280\ \text{ft} \times \text{nm} \times (\text{hr}) \times 60\ \text{min}}{\text{sm} \times 6080\ \text{ft} \times \text{CAV (nm)} \times \text{hr}}$$

Abbreviations Used: Time before a potential collision with 3 miles remaining before impact [*TBI-3MR — units are in "minutes"*]; combined approach velocity [*CAV — units are in "nm per hr"*]; hours [hr]; minutes [min]; nautical miles [nm]; statute miles [sm].

Note: The 3 *"statute" miles of visibility* required of VFR pilots flying their aircraft in controlled airspace is converted into *"nautical" miles* in the calculation of the *TBI-3MR* — 1 statute mile equals 5280 feet; 1 nautical mile equals 6080 feet; *3.00 statute miles* equals *2.61 nautical miles.*

Table 100-100. "Effect of *RAA* on the *CAV* and *TBI-3MR* of two aircraft on a collision course when the atmospheric visibility is limited to 3 statute miles. The corresponding velocities of both aircraft at each *RAA* are respectively 100 and 100 knots."

$RAA_{[deg's]}$	V_1 [knts]	V_2 [knts]	$CAV_{[knts]}$	$TBI\text{-}3MR_{[min]}$
1	100	100	1.75	89.6
10	100	100	17.4	8.97
20	100	100	34.7	4.50
30	100	100	51.8	3.02
40	100	100	68.4	2.29
50	100	100	84.5	1.85
60	100	100	100.0	1.56
70	100	100	114.7	1.36
80	100	100	128.6	1.22
89	100	100	140.2	1.12
90	100	100	141.4	1.11
100	100	100	153.2	1.02
110	*100*	*100*	*163.8*	*0.95 (57 sec)*
120	*100*	*100*	*173.2*	*0.90 (54 sec)*
130	*100*	*100*	*181.3*	*0.86 (52 sec)*
140	*100*	*100*	*187.9*	*0.83 (50 sec)*
150	*100*	*100*	*193.2*	*0.81 (49 sec)*
160	*100*	*100*	*197.0*	*0.79 (48 sec)*
170	*100*	*100*	*199.2*	*0.78 (47 sec)*
179	*100*	*100*	*200.0*	*0.78 (47 sec)*

Abbreviations Used: Degrees [deg's]; knots [knts]; relative approach angle [*RAA*]; velocity of aircraft #1 [*V1*]; velocity of aircraft #2 [*V2*]; combined approach velocity [*CAV*]; time before a potential collision with 3 miles remaining before impact [*TBI-3MR*].

Note #1: *Italicized values below the dashed thin line* [- - - -] signify conditions which generate *TBI-3MR's* of less than 60 seconds. Velocities chosen for comparative purposes (*V1, V2*) are those common to light single engine aircraft — aircraft which typically fly the designated VFR flight levels. Aircraft flying at velocities greater than those shown here will have greater *CAV's* and even shorter *TBI-3MR's*.

Note #2: *All values below the dashed thick line* [— — — —] signify currently possible *RAA's* which would be eliminated if the proposed amendment (see text) is accepted.

Table 100-120. "Effect of *RAA* on the *CAV* and *TBI-3MR* of two aircraft on a collision course when the atmospheric visibility is limited to 3 statute miles. The corresponding velocities of both aircraft at each *RAA* are respectively 100 and 120 knots."

RAA [deg's]	V_1 [knts]	V_2 [knts]	CAV [knts]	TBI-3MR [min]
1	100	120	20.1	7.78
10	100	120	27.7	5.65
20	100	120	43.0	3.64
30	100	120	60.1	2.60
40	100	120	77.6	2.02
50	100	120	94.7	1.65
60	100	120	111.4	1.40
70	100	120	127.2	1.23
80	100	120	142.2	1.10
89	100	120	154.9	1.01
90	100	120	156.2	1.00
100	*100*	*120*	*169.0*	*0.92 (55 sec)*
110	*100*	*120*	*180.6*	*0.87 (52 sec)*
120	*100*	*120*	*190.8*	*0.82 (49 sec)*
130	*100*	*120*	*199.6*	*0.78 (47 sec)*
140	*100*	*120*	*206.9*	*0.76 (45 sec)*
150	*100*	*120*	*212.6*	*0.74 (44 sec)*
160	*100*	*120*	*216.7*	*0.72 (43 sec)*
170	*100*	*120*	*219.2*	*0.71 (43 sec)*
179	*100*	*120*	*220.0*	*0.71 (43 sec)*

Abbreviations Used: Relative approach angle [*RAA*]; velocity of aircraft #1 [*V1*]; velocity of aircraft #2 [*V2*]; combined approach velocity [*CAV*]; time before a potential collision with 3 miles remaining before impact [*TBI-3MR*].

Note #1: *Italicized values below the dashed thin line* [- - - -] signify conditions which generate *TBI-3MR's* of less than 60 seconds. Velocities chosen for comparative purposes (*V1*, *V2*) are those common to light single engine aircraft — aircraft which typically fly the designated VFR flight levels. Aircraft flying at velocities greater than those shown here will have greater *CAV's* and even shorter *TBI-3MR's*.

Note #2: *All values below the dashed thick line* [— — — —] signify currently possible *RAA's* which would be eliminated if the proposed amendment (see text) is accepted.

Table 100-140. "Effect of *RAA* on the *CAV* and *TBI-3MR* of two aircraft on a collision course when the atmospheric visibility is limited to 3 statute miles. The corresponding velocities of both aircraft at each *RAA* are respectively 100 and 140 knots."

RAA [deg's]	V_1 [knts]	V_2 [knts]	CAV [knts]	TBI-3MR [min]
1	100	140	40.1	3.90
10	100	140	45.0	3.47
20	100	140	57.3	2.73
30	100	140	73.2	2.14
40	100	140	90.3	1.73
50	100	140	107.7	1.45
60	100	140	124.9	1.25
70	100	140	141.5	1.10
80	*100*	*140*	*157.3*	*0.99 (60 sec)*
89	*100*	*140*	*170.6*	*0.92 (55 sec)*
90	*100*	*140*	*172.0*	*0.91 (55 sec)*
100	*100*	*140*	*185.6*	*0.84 (51 sec)*
110	*100*	*140*	*197.9*	*0.79 (47 sec)*
120	*100*	*140*	*208.8*	*0.75 (45 sec)*
130	*100*	*140*	*218.2*	*0.72 (43 sec)*
140	*100*	*140*	*225.9*	*0.69 (42 sec)*
150	*100*	*140*	*232.1*	*0.67 (40 sec)*
160	*100*	*140*	*236.5*	*0.66 (40 sec)*
170	*100*	*140*	*239.1*	*0.65 (39 sec)*
179	*100*	*140*	*240.0*	*0.65 (39 sec)*

Abbreviations Used: Relative approach angle [*RAA*]; velocity of aircraft #1 [*V1*]; velocity of aircraft #2 [*V2*]; combined approach velocity [*CAV*]; time before a potential collision with 3 miles remaining before impact [*TBI-3MR*].

Note #1: *Italicized values below the dashed thin line* [- - - -] signify conditions which generate *TBI-3MR's* of less than 60 seconds. Velocities chosen for comparative purposes (*V1, V2*) are those common to light single engine aircraft — aircraft which typically fly the designated VFR flight levels. Aircraft flying at velocities greater than those shown here will have greater *CAV's* and even shorter *TBI-3MR's*.

Note #2: *All values below the dashed thick line* [— — — —] signify currently possible *RAA's* which would be eliminated if the proposed amendment (see text) is accepted.

Table 120-120. "Effect of *RAA* on the *CAV* and *TBI-3MR* of two aircraft on a collision course when the atmospheric visibility is limited to 3 statute miles. The corresponding velocities of both aircraft at each *RAA* are respectively 120 and 120 knots."

RAA [deg's]	V_1 [knts]	V_2 [knts]	CAV [knts]	TBI-3MR [min]
1	120	120	2.09	74.6
10	120	120	20.9	7.47
20	120	120	41.7	3.75
30	120	120	62.1	2.52
40	120	120	82.1	1.90
50	120	120	101.4	1.54
60	120	120	120.0	1.30
70	120	120	137.7	1.14
80	120	120	154.3	1.01
89	*120*	*120*	*168.2*	*0.93 (56 sec)*
90	*120*	*120*	*169.7*	*0.92 (55 sec)*
100	*120*	*120*	*183.9*	*0.85 (51 sec)*
110	*120*	*120*	*196.6*	*0.80 (48 sec)*
120	*120*	*120*	*207.8*	*0.75 (45 sec)*
130	*120*	*120*	*217.5*	*0.72 (43 sec)*
140	*120*	*120*	*225.5*	*0.69 (42 sec)*
150	*120*	*120*	*231.8*	*0.67 (40 sec)*
160	*120*	*120*	*236.4*	*0.66 (40 sec)*
170	*120*	*120*	*239.1*	*0.65 (39 sec)*
179	*120*	*120*	*240.0*	*0.65 (39 sec)*

Abbreviations Used: Degrees [deg's]; knots [knts]; relative approach angle [*RAA*]; velocity of aircraft #1 [*V1*]; velocity of aircraft #2 [*V2*]; combined approach velocity [*CAV*]; time before a potential collision with 3 miles remaining before impact [*TBI-3MR*].

Note #1: *Italicized values below the dashed thin line* [- - - -] signify conditions which generate *TBI-3MR's* of less than 60 seconds. Velocities chosen for comparative purposes (*V1, V2*) are those common to light single engine aircraft — aircraft which typically fly the designated VFR flight levels. Aircraft flying at velocities greater than those shown here will have greater *CAV's* and even shorter *TBI-3MR's*.

Note #2: *All values below the dashed thick line* [— — — —] signify currently possible *RAA's* which would be eliminated if the proposed amendment (see text) is accepted.

Table 120-140. "Effect of *RAA* on the *CAV* and *TBI-3MR* of two aircraft on a collision course when the atmospheric visibility is limited to 3 statute miles. The corresponding velocities of both aircraft at each *RAA* are respectively 120 and 140 knots."

$RAA_{[deg's]}$	$V_{1\ [knts]}$	$V_{2\ [knts]}$	$CAV_{[knts]}$	$TBI\text{-}3MR_{[min]}$
1	120	140	20.1	7.77
10	120	140	30.2	5.18
20	120	140	49.3	3.17
30	120	140	70.0	2.23
40	120	140	90.9	1.72
50	120	140	111.4	1.40
60	120	140	131.1	1.19
70	120	140	150.0	1.04
80	*120*	*140*	*167.8*	*0.93 (56 sec)*
89	*120*	*140*	*182.8*	*0.86 (51 sec)*
90	*120*	*140*	*184.4*	*0.85 (51 sec)*
100	*120*	*140*	*199.6*	*0.78 (47 sec)*
110	*120*	*140*	*213.3*	*0.73 (44 sec)*
120	*120*	*140*	*225.4*	*0.69 (42 sec)*
130	*120*	*140*	*235.8*	*0.66 (40 sec)*
140	*120*	*140*	*244.4*	*0.64 (38 sec)*
150	*120*	*140*	*251.2*	*0.62 (37 sec)*
160	*120*	*140*	*256.1*	*0.61 (37 sec)*
170	*120*	*140*	*259.0*	*0.60 (36 sec)*
179	*120*	*140*	*260.0*	*0.60 (36 sec)*

Abbreviations Used: Degrees [deg's]; knots [knts]; relative approach angle [*RAA*]; velocity of aircraft #1 [*V1*]; velocity of aircraft #2 [*V2*]; combined approach velocity [*CAV*]; time before a potential collision with 3 miles remaining before impact [*TBI-3MR*].

Note #1: *Italicized values below the dashed thin line* [- - - -] signify conditions which generate *TBI-3MR's* of less than 60 seconds. Velocities chosen for comparative purposes (*V1, V2*) are those common to light single engine aircraft — aircraft which typically fly the designated VFR flight levels. Aircraft flying at velocities greater than those shown here will have greater *CAV's* and even shorter *TBI-3MR's*.

Note #2: *All values below the dashed thick line* [— — — —] signify currently possible *RAA's* which would be eliminated if the proposed amendment (see text) is accepted.

Table 140-140. "Effect of *RAA* on the *CAV* and *TBI-3MR* of two aircraft on a collision course when the atmospheric visibility is limited to 3 statute miles. The corresponding velocities of both aircraft at each *RAA* are respectively 140 and 140 knots."

RAA [deg's]	V_1 [knts]	V_2 [knts]	CAV [knts]	TBI-3MR [min]
1	140	140	2.44	64.0
10	140	140	24.4	6.41
20	140	140	48.6	3.21
30	140	140	72.5	2.16
40	140	140	95.8	1.63
50	140	140	118.3	1.32
60	140	140	140.0	1.12
70	*140*	*140*	*160.6*	*0.97 (58 sec)*
80	*140*	*140*	*180.0*	*0.87 (52 sec)*
89	*140*	*140*	*196.3*	*0.80 (48 sec)*
90	*140*	*140*	*198.0*	*0.79 (47 sec)*
100	*140*	*140*	*214.5*	*0.73 (44 sec)*
110	*140*	*140*	*229.4*	*0.68 (41 sec)*
120	*140*	*140*	*242.5*	*0.64 (39 sec)*
130	*140*	*140*	*253.8*	*0.62 (37 sec)*
140	*140*	*140*	*263.1*	*0.59 (36 sec)*
150	*140*	*140*	*270.5*	*0.58 (35 sec)*
160	*140*	*140*	*275.7*	*0.57 (34 sec)*
170	*140*	*140*	*278.9*	*0.56 (34 sec)*
179	*140*	*140*	*280.0*	*0.56 (33 sec)*

Abbreviations Used: Degrees [deg's]; knots [knts]; relative approach angle [*RAA*]; velocity of aircraft #1 [*V1*]; velocity of aircraft #2 [*V2*]; combined approach velocity [*CAV*]; time before a potential collision with 3 miles remaining before impact [*TBI-3MR*].

Note #1: *Italicized values below the dashed thin line* [- - - -] signify conditions which generate *TBI-3MR's* of less than 60 seconds. Velocities chosen for comparative purposes (*V1, V2*) are those common to light single engine aircraft — aircraft which typically fly the designated VFR flight levels. Aircraft flying at velocities greater than those shown here will have greater *CAV's* and even shorter *TBI-3MR's*.

Note #2: *All values below the dashed thick line* [— — — —] signify currently possible *RAA's* which would be eliminated if the proposed amendment (see text) is accepted.

[FR Doc. 86-12973 Filed 6-9-86; 8:45 am]
BILLING CODE 4910-13-C

FEDERAL TRADE COMMISSION

16 CFR Part 435

Regulatory Flexibility Act Review of Mail Order Rule

AGENCY: Federal Trade Commission.

ACTION: Summary of comments.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the Federal Trade Commission on January 14, 1986 solicited comments on the *Report on a National Survey of Mail Order Firms and the Impact of the Mail Order Rule* and on whether the Trade Regulation Rule for Mail Order Merchandise ("Rule" 16 CFR Part 435) has had a significant economic impact on a substantial number of small entities and if it has, whether the Rule should be amended to minimize any significant economic impact on small entities (51 FR 1516).

FOR FURTHER INFORMATION CONTACT: Katherine L. Ehrenkranz, Attorney, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, DC 20580. Tel: (202) 376-2863. Comments and the survey are available in the Public Reference Room 130 at the above address.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq. ("RFA") requires that the Federal Trade Commission conduct a periodic review of rules which have or may have a significant economic impact upon a substantial number of small entities.

In 1975, the Federal Trade Commission published the Mail Order Rule (16 CFR Part 435). The Rule establishes procedures which must be followed if a mail order seller cannot slip merchandise on time. If merchandise cannot be shipped by data advertised, or within 30 days if a date is not specified, the mail order seller is required to notify the buyer of the delay and to provide the buyer with an option either to agree to the delay or to cancel the order and receive a prompt refund. This notification with the specified disclosures and the refund option are required for any additional delay which may occur. A prepaid means for the buyer to respond must be provided.

The Federal Trade Commission, in accordance with the RFA, solicited comments and data on the survey and on whether the Mail Order Rule has had a significant economic impact on a substantial number of small entities and if it has, whether the Rule should be amended to minimize any significant economic impact on small entities. (51 FR 1516).

Questions posed were (1) whether the Rule has had a significant economic impact on a substantial number of small entitie, (2) what burdens, if any, compliance with the Rule places on small entities, (3) what changes, if any, should be made to minimize any economic impact the Rule has on small businesses, (4) to what extent the Rule overlaps, duplicates or conflicts with other rules, and (5) whether any changed conditions have occurred that affect the Rule.

Three organizations submitted comments. Based on the survey and the comments received, the Commission has no basis to conclude that the rule has had a significant economic impact on a substantial number of small entities.

No changes to the Rule were suggested that would minimize the impact on small entities. According to the comments, there is no conflict between this Rule and other federal rules or with state and local governmental rules. The comments stated that no conditions have changed since promulgation of the Rule to warrant repeal or amendment of the Rule.

The comments and the survey indicate that there is a continuing need for the Rule, that the Rule is accomplishing the objectives contemplated by Congress and the Commission, that the Rule serves the interests of both consumers and industry, and that any burdens imposed by the Rule are outweighed by the benefits to consumers and to industry.

By Direction of the Commission.

Dated: May 21, 1986.

Emily H. Rock,

Secretary

[FR Doc. 86-13008 Filed 6-9-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 601

Administrative Procedure; Unemployment Insurance Audit Appeals

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Employment and Training Administration (ETA) proposes regulations by which States may appeal to the Office of Administrative Law Judges (OALJ) final determinations disallowing costs or imposing corrective actions as a result of Unemployment Insurance (UI) audits. Most States are currently undergoing audits of their UI programs and, therefore, ETA considered the need for an administrative appeal procedure applicable to these audits. The Department of Labor (DOL) is proposing that States shall have administrative appeal rights from Grant Officers' final determinations disallowing costs or imposing corrective actions as a result of all audits of the Federal-State unemployment compensation program and related Federal unemployment benefit and allowance programs.

DATE: Comments must be received on or before July 10, 1986.

ADDRESS: Comments may be mailed to: Linda D. Kontnier, Chief, Division of Debt Management, Employment and Training Administration, 601 D Street, NW., Washington, DC 20213.

FOR FURTHER INFORMATION CONTACT: Linda Kontnier. Telephone: (202) 376-6630.

SUPPLEMENTARY INFORMATION:

Background Information

The Department of Labor is proposing that administrative appeal rights for audit determinations of the Unemployment Insurance programs shall be provided within the Department. Provision of administrative appeal rights to States would provide States with an opportunity to fully present within the Department their views with regard to final determinations disallowing costs or imposing corrective actions as a result of all audits of UI programs. The internal administrative appeals process will allow the Department and the States to more fully develop the record to consider the claims of the parties in adjudicating the validity of the audit determinations. This corresponds with other ETA programs which have administrative appeal rights with the Office of Administrative Law Judges. Moreover, the Office of Administrative Law Judges has established procedures for the provision of administrative hearings and is accustomed to working with ETA programs.

Most States are currently having their UI programs audited. It is therefore an appropriate time to provide administrative appeal rights within the OALJ for UI programs. It should be noted, however, that after exhaustion of the administrative appeal rights set forth in this rule, a State may, if it desires, seek judicial review in accordance with the Administrative Procedure Act, 5 U.S.C. Chapter 7.

Classification—Executive Order 12291

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction

The proposed rule in this document will not increase the Federal paperwork burden on the private or public sector under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Paperwork requirements under the proposed regulation involve proceedings during the conduct of an administrative action or investigation and are exempt from coverage under 5 CFR 1320.3(c).

Trade Sensitive Activity

The Department believes that the proposed rule in this document does not involve trade sensitive activities. This determination is predicated upon the fact that these rules merely set forth procedures by which States may appeal final determinations resulting from audits of Unemployment Insurance programs. Consequently, the proposed rule does not fall within the scope of the Office of Management and Budget's definition of a trade sensitive activity.

Regulatory Flexibility Act

The Department of Labor believes that this proposed rule will have no "significant economic impact on a substantial number of small entities" within the meaning of 5 U.S.C. 605(b). The Secretary of Labor has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because this rule affects only State Governments, and thus no economic impact is expected with respect to any small entities. Accordingly, no regulatory flexibility analysis is required.

Catalog of Federal Domestic Assistance Number

This program is listed in the Catalog of Federal Domestic Assistance at No. 17.225, "Unemployment Insurance".

List of Subjects in 20 CFR Part 601

Unemployment compensation, Labor.

Proposed Rule

For the above reasons, it is proposed that Part 601 of Chapter V of Title 20, Code of Federal Regulations, be amended as follows:

PART 601—ADMINISTRATIVE PROCEDURE

1. The authority citation for Part 601 is proposed to be revised to read as follows and the authority citations following all the sections in Part 601 are proposed to be removed:

Authority: 5 U.S.C. 301; 26 U.S.C. Chapter 23; 29 U.S.C. 49k; 38 U.S.C. Chapters 41 and 42; 39 U.S.C. 3202(a)(1)(E) and 3202 note; 42 U.S.C. 1302; and Secretary of Labor's Order No. 4–75, 40 FR 18515.

§ 601.7 [Removed]

2. Part 601 is proposed to be amended by removing § 601.7.

3. Part 601 is proposed to be amended by revising § 601.9 to read as follows:

§ 601.9 Audits.

The Department of Labor's audit regulation at 41 CFR 29–70.217 (1984 ed.) shall apply with respect to employment service and unemployment insurance programs.

4. Part 601 is proposed to be amended by adding a new Subpart C to read as follows:

Subpart C—Department of Labor Administrative Appeals Procedures for Audits of the Federal-State Unemployment Compensation Program and Related Federal Unemployment Benefit and Allowance Programs

§ 601.10 Hearing before the Office of Administrative Law Judges.

(a) *Purpose and scope.* This section sets forth the procedures by which States may appeal to the Office of Administrative Law Judges (OALJ) final determinations disallowing costs or imposing corrective actions as a result of Unemployment Insurance (UI) audits. This Subpart applies to all audits of the Federal-State unemployment compensation program and all related Federal unemployment benefit and allowance programs.

(b) *Jurisdiction.* This section provides States with administrative hearing rights before an administrative law judge only for final determinations disallowing costs or imposing corrective actions as a result of UI audits. Final determinations resulting from other than UI audits within the scope of this Subpart shall be adjudicated under the appropriate regulation or other applicable law.

(c) *Procedure for filing request for hearing.* (1) Within 21 days of receipt of the final determination of the Grant Officer disallowing costs or imposing a corrective action, the State, if it chooses to appeal, shall transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, Office of the Administrative Law Judges, United States Department of Labor, Room 700, Vanguard Building, 1111 20th Street, NW., Washington, DC 20036, with one copy to the departmental official who signed the final determination and one copy to the Administrator of the Office of Program and Fiscal Integrity, Employment and Training Administration, Room 8400, 601 D Street, NW., Washington, DC 20213. Proof of service on such officials shall be enclosed with the appeal to the administrative law judge, and shall be a condition of acceptance of the appeal by the administrative law judge. The Chief Administrative Law Judge shall designate an administrative law judge to hear the appeal.

(2) The 21-day filing requirement is jurisdictional; failure to timely request a hearing acts as a waiver of the right to hearing.

(3) The request shall be accompanied by a copy of the final determination and shall specifically state those issues of the final determination upon which review is requested. Those provisions of the final determination not specified for review, or the entire final determination when no hearing has been requested within the 21 days, shall be considered resolved and not subject to further review. Only the alleged violations of Federal statutes, regulations, grants or agreements made under the Federal law specifically raised in the final determination and the request for hearing are subject to review.

(d) *Rules of procedure.* The *Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges,* set forth at 29 CFR Part 18, shall govern the conduct of proceedings under this Subpart.

(e) *Timing of decisions.* The administrative law judge should render a written decision not later than 90 days after the closing of the record.

(f) *Timely submission of evidence.* The administrative law judge shall not permit the introduction at the hearing of documentation relating to the allowability of costs if such documentation has not been made available for review either at the time ordered for any prehearing conference, or, in the absence of such an order, at

least three weeks prior to the hearing date.

(g) *Burden of production.* The Department of Labor shall have the burden of production to support the Grant Officer's determination. To this end, the Grant Officer shall prepare and file an administrative file in support of the determination. Thereafter, the party or parties seeking to overturn the Grant Officer's determination shall have the burden of persuasion.

§ 601.11 Post-hearing procedures.

(a) *Final decision.* The decision of the administrative law judge shall constitute final action by the Secretary of Labor, unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part thereof has filed exceptions with the Secretary of Labor specifically identifying the procedure, finding of fact, conclusion of law, or policy to which exception is taken. Exceptions shall be transmitted by certified mail, return receipt requested, to the Secretary of Labor, United States Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Any exceptions not specifically urged shall be deemed to have been waived. Thereafter, the decision of the administrative law judge shall become the decision of the Secretary of Labor, unless the Secretary of Labor, within 30 days of such filing, has notified the parties that the case has been accepted for review.

(b) *Secretarial review.* Any case accepted for review by the Secretary of Labor shall be decided within 180 days of such acceptance. If no decision is issued within such time, the decision of the administrative law judge shall become the final decision of the Secretary of Labor.

§ 601.12 Other authority.

Nothing contained in this Subpart shall be deemed to prejudice the separate authority of other law enforcement officials to pursue other remedies and sanctions available to them under any Federal, State, or local law or at common law. Nothing in this Subpart shall be deemed to reduce the responsibility and full liability of the States to the United States or the Department of Labor.

Signed at Washington, DC, on June 4, 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86-13076 Filed 6-9-86; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 256

Oil, Gas, and Sulphur Operations in the Outer Continental Shelf; Announcement of Public Meetings

AGENCY: Minerals Management Service, Interior.

ACTION: Announcement of public meetings.

SUMMARY: This notice announces two public meetings to be held in connection with the proposed consolidation of the Minerals Management Service (MMS) rules governing oil, gas, and sulphur operations in the Outer Continental Shelf (OCS). The initial meeting will be held in Los Angeles, California, and a second meeting will be held in New Orleans, Louisiana.

DATES: The meeting in Los Angeles, California, will be held on August 5, 1986, at 9:30 a.m., and the meeting in New Orleans, Louisiana, will be held on August 7, 1986, at 9:30 a.m. Questions concerning the proposed rule which the public wishes to have addressed at the meetings should be postmarked or received by July 7, 1986.

ADDRESSES: The public meeting on August 5, 1986, will be held at the Los Angeles Convention and Exhibition Center, Room 214, 1201 S. Figueroa Street, Los Angeles, California. The public meeting on August 7, 1986, will be held at the Marriott Hotel, 555 Canal Street, New Orleans, Louisiana. Questions which the public wishes MMS to address during the public meeting should be sent to the Department of the Interior, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 646, Room 6A110, Reston, Virginia 22091; Attention: David A. Schuenke.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, Telephone: (703) 648-7816 or FTS 959-7816.

SUPPLEMENTARY INFORMATION: On March 18, 1986, MMS published a notice of proposed rulemaking in the **Federal Register** (51 FR 9316) to consolidate into one document the currently multitiered rules that regulate oil, gas, and sulphur operations in the OCS. The proposed rule restructures MMS rules currently contained in regulations at 30 CFR Parts 250 and 256 and OCS Orders for each of the four OCS Regions. Due to the extensive nature of the rulemaking and in response to requests from industry, MMS published a **Federal Register** Notice on May 2, 1986 (51 FR 16348), which extended the comment period on the proposed rule until September 15, 1986.

To aid commenters in responding to the proposed rule, MMS is planning two public meetings at which time MMS will present a summary of proposed changes and will provide answers to questions received from the public by July 7, 1986. Responses at the meeting will be limited to clarification of the proposed rule; decisions concerning substantive comments to the rule will not be made until after the close of the comment period to enable MMS to consider all timely comments.

Dated: June 3, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-13014 Filed 6-9-86; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 181 and 183

[CGD 85-002]

Boating Safety; Certification and Safe Powering Standards

Correction

In FR Doc. 86-12060 beginning on page 19364 in the issue of Thursday, May 29, 1986, make the following corrections:

1. On page 19364, first column, in the **SUMMARY**, eighth line, "safety" should read "safely".

2. On page 19365, first column, third complete paragraph, fourth line, insert the following after "capacity": "of a boat meeting new criteria. In lieu of the existing". In the tenth line, "sterring" should read "steering".

§ 183.53 [Corrected]

3. On page 19366, third column, in § 183.53 (b)(4), last line, "speed" should read "throttle".

4. On page 19367, first column, in § 183.53 (b)(5), in the twelfth and twentieth lines, "contracting" should read "contacting".

5. In the same column, in § 183.53 (b)(6)(ii), in the fifth line, "with" should read "both" and in the sixth line, insert "Test" after "Turn".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3029-3]

Approval and Promulgation of Implementation Plans; Illinois

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

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing rulemaking on a revision to the Illinois State Implementation Plan (SIP) for Lead, Ozone, and Carbon Monoxide (CO). The revision pertains to the Chicago and Cook County ordinances to ban the sale of leaded gasoline. USEPA's action is based upon a revision request which was submitted by the State of Illinois to satisfy the requirements of Part D of the Clean Air Act (Act).

DATE: Comments on this revision and on the proposed USEPA action must be received by July 10, 1986.

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) 886-6036, 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

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

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) 886-6036.

SUPPLEMENTARY INFORMATION: On April 12, 1985, the State of Illinois submitted Chicago and Cook County, Illinois ordinances to ban the sale of leaded gasoline containing more than 0.05 grams of lead per gallon as revisions to its SIP for Ozone, CO and Lead. The State also submitted documentation on the estimated health and welfare, economic and air quality benefits expected from these ordinances pursuant to the provisions of Sections 172(a)(2) and 211(c)(4)(C) of the Act.

Clean Air Act

Section 172(a)(2) provided States with the opportunity to request an extension of the December 31, 1982, attainment date for the ozone and CO National Ambient Air Quality Standards (NAAQS), if a demonstration was made that an area was unable to meet the standards by that date, despite implementation of all reasonably available control measures. The State of Illinois made such a demonstration of Northeast Illinois. Under this circumstance, an approvable plan must demonstrate attainment as expeditiously as practicable, but not later than December 31, 1987.

Section 211(c)(4)(C) allows a State to include a control measure on fuel additives—different from any existing USEPA control measure—as a revision to its SIP only if the control measure is necessary to achieve an applicable primary or secondary NAAQS.

SIP Submittal

Illinois has submitted two local ordinances, one from Chicago and one from Cook County, which limit the amount of lead in gasoline to 0.05 grams per gallon.[1] The purpose of the ordinances is to reduce the amount of lead emitted into the atmosphere by cars, buses and trucks and to provide for further reduction in the amount of hydrocarbons emitted. Hydrocarbons are byproducts of the combustion of gasoline and are precursors to the formation on ozone. Ozone is a pollutant that can cause harm to the human respiratory system as well as property damage. Chicago and Cook County have not attained the NAAQS for ozone and, therefore, must implement measures to reduce the formation of atmospheric ozone.

Public support for the Chicago and Cook County leaded gasoline ban ordinances was initially based upon the need to reduce high lead levels in soils where children play and to thereby reduce the risk of lead poisoning in the children. A maximum of 0.05 grams of lead per gallon of gasoline, as the ordinances prescribe, would also prevent the introduction of leaded fuel into vehicles with catalytic converters, designed to run with unleaded gasoline. Catalytic converters are designed to reduce the emissions of hydrocarbons and CO into the air and are rendered inoperative by leaded fuels. The Federal phasedown of lead content in gasoline is based upon a maximum lead content of 0.1 grams of lead per gallon, and relies upon removal of the cost disparity between leaded and unleaded gasoline for its effectiveness in reducing the misfueling of vehicles with leaded gasoline. The more stringent local ordinances would virtually eliminate the availability of leaded gasoline and the introduction of lead into the atmosphere by essentially eliminating the gasoline lead content. It will also enhance the effectiveness of catalytic converters in reducing hydrocarbon and CO emissions because the possibility of misfueling will be curtailed.

The State submittal indicates that although Cook County (including Chicago) attains the NAAQS for lead, the ordinances are expected to further reduce ambient lead levels as well as prevent the future build up of lead in the soil. Emission reduction calculations were included in the submittal for the reduction of hydrocarbons and CO related to the prevention of future misfueling of vehicles in Cook County. Although the State has demonstrated attainment of the CO standard by the end of 1987 without the leaded gasoline ordinances, the State has not demonstrated that it can attain the ozone standard by the end of 1987 without these ordinances.

A reduction of hydrocarbon emissions for Cook County of approximately 3,000 kilograms a day (kg/day) can be attributed to these ordinances even in light of the national lead phasedown. The total 1987 hydrocarbon emissions allowed in Northeast Illinois, while still providing for attainment of the ozone NAAQS is approximately 701,000 kg/day. The stationary source control strategies adopted to date by the Illinois Pollution Control Board (IPCB), the vehicle inspection and maintenance program (I/M) for which a contract has recently been signed, and the transportation control measures currently in place are expected to lower in 1987 hydrocarbon emissions to approximately 743,000 kg/day. The estimated hydrocarbon emissions credit for the national lead phasedown in Northeast Illinois, excluding reductions in Cook County, reduces the level to approximately 740,000 kg/day. Credit for the leaded gasoline ordinances, if they are finally approved by USEPA, would lower emissions to approximately 737,000 kg/day. Thus, the previously mentioned measures are inadequate to attain the Ozone NAAQS standard by December 31, 1987.

The State has proposed adoption of additional stationary source control measures to reduce the hydrocarbon emission level to the 701,000 kg/day required for attainment. However, the

[1] The two ordinances explicitly state that they are effective only upon USEPA approval of their inclusion into the SIP.

presently adopted measues are inadequate to achieve timely attainment, and it is unclear whether the IPCB may ultimately adopt measures which are sufficient to achieve attainment of the Ozone NAAQS.

Conclusion

The presently adopted hydrocarbon control strategy will not result in the attainment of the ozone NAAQS by December 31, 1987. However, the Chicago and Cook County leaded gasoline ordinances will reduce the amount of ozone by the end of 1987 and can be considered definite steps toward expeditious attainment.

The State submittal indicates that even if the IPCB adopted additional control of the ozone standard earlier in 1987 than would be otherwise possible. If additional hydrocarbon reductions take place, the reasonable further progress demonstrated submitted by the State of Illinois indicates that attainment is expected in early August 1987 with the unleaded gasoline ordinances but in early September 1987 without the ordinances.

USEPA's analysis shows that the lead ban will shorten by one month the amount of time it takes to attain the standard, if other measures are implemented. If other measures are not implemented, then the lead ban will reduce the length of time beyond the statutory attainment deadline that the Chicago area would continue to violate the ozone standard.

Given the State of Illinois' presently adopted ozone control measures, however, the ordinances are necessary steps for the attainment of the ozone NAAQS "as expeditiously as practicable." Therefore, USEPA proposes approval of these ordinances as part of the Illinois SIP.

Although USEPA is proposing to approve the lead ban as part of the SIP, USEPA seeks public comment on whether an approval would contravene the provisions of section 211(c)(4)(C) of the Clean Air Act. That provision preempts State regulation of fuels and fuel additives previously regulated by USEPA, unless USEPA determines that State control or prohibition of the fuel or additive is "necessary to achieve" the applicable national ambient air quality standard. The statute does not define the meaning of the term "necessary".

One possible view is that the term "necessary" means essential. Since the lead ban alone cannot achieve attainment of the ozone standard, and since there are many other measures which Chicago will have to adopt to demonstrate attainment of the ozone standard, it is difficult to show that the lead ban is essential for attainment of the standard. Moreover, if other control measures would be equally successful in moving Chicago to attainment of the ozone standard, the statute would arguably require the adoption of those measures prior to adoption of a fuel regulation.

Alternatively, "necessary" could be read to mean helpful to attainment of the standard. In that case, the lead ban would satisfy the statutory criteria, since the ban will aid in reducing hydrocarbon levels in the Chicago area. In light of USEPA's concern with reducing ozone levels throughout the country and its intent to develop a national strategy for achieving the ozone standard in areas which are unlikely to attain the standard by 1987, it is arguably appropriate for USEPA to approve any measure which moves the area closer to standard attainment. USEPA requests public comment on the proper interpretation of section 211(c)(4)(C) and whether it is authorized to approve this revision in view of Chicago's likely failure to attain the ozone standard by 1987 unless further control measures are adopted.

A second concern is whether approval of the lead ban would adversely affect refiners and service station owners in the Chicago area. In enacting section 211(c)(4)(C), Congress was apparently concerned about piecemeal regulation of fuels and additives and the potentially disruptive effects on refiners and service station owners that could result from permitting different lead levels in different jurisdictions. While Illinois is the first state to submit a lead ban for USEPA's approval, other States could follow suit. If those States adopted a different lead level from which Chicago has adopted, refiners could be faced with the prospect of supplying gasoline at different lead levels to different localities. On the other hand, in the case of Chicago, refiners arguably should have no difficulty in supplying different types of gasoline, since refiners already provide unleaded gasoline throughout the country. The ban simply reduces their market for leaded gasoline. USEPA requests comment on the issue of whether the lead ban in Chicago will cause the type of disruption Congress sought to avoid through the enactment of section 211(c)(4)(C).

Under 5 U.S.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 27, 1985.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 86-13032 Filed 6-9-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 53

Hospitals and Medical Facilities Construction; Hill-Burton Loan Guarantees and Direct Loans—User Charges for Modification Requests

Correction

In FR Doc. 86-11215 beginning on page 18462 in the issue of Tuesday, May 20, 1986, make the following correction:

PART 53—[CORRECTED]

On page 18463, first column, in amendatory instruction 1, first line, "43 CFR" should read "42 CFR".

BILLING CODE 1505-02-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 220

Temporary Relocation Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This regulation establishes policy implementing FEMA's responsibility under Executive Order 12316 to provide temporary housing to threatened individuals, not otherwise provided for, as part of a hazardous materials response action taken under the Comprehensive Environmental Response, Compensation and Liability Act of 1980. The regulation will provide for consistent implementation of the program whether administered directly by FEMA, or by States.

DATE: Comments must be received on or before August 11, 1986.

ADDRESS: Comments should be sumitted to: Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 835, 500 "C" Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Karen Forbes, Superfund and Relocation

Assistance Branch, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street, SW, Room 701, Washington, DC 20472, (202) 646-3807.

SUPPLEMENTARY INFORMATION: Executive Order 12316, Responses to Environmental Damages (August 14, 1981), assigned to FEMA responsibility for the temporary housing of threatened individuals, not otherwise provided for. To date, FEMA has carried out its responsibility for temporary relocation at 19 sites, which ranged in size from one household to over 300 households. Many of these operations were administered by States in accordance with their site-specified relocation plans under FEMA's monitoring and oversight.

These regulations were developed after a careful review of the procedures and types of available assistance under the temporary housing program of the Disaster Relief Act of 1974. That program is the only other Federal program that provides temporary housing from the Federal government directly to individuals. Decisions on what could be used from that program were made, while keeping in mind the differences in program intent of the two programs. The general program intent of temporary housing being to provide assistance to eligible applicants whose homes have been made uninhabitable in a Presidentially-declared major disaster or emergency. The general program intent of the temporary relocation program is to provide temporary relocation assistance to individuals who have been identified by the Environmental Protection Agency as living in a hazardous substance affected area, and who should be temporarily relocated to protect their health and safety during cleanup operations.

Eight categories of eligible assistance designed to pay costs directly related to the temporary relocation are provided. They are: (1) Temporary housing in locally available private rentals; (2) food subsidy to cover the costs when individuals are placed in hotels or motels; (3) furniture assistance when individuals are placed in unfurnished temporary housing, or when the furniture at the permanent residence is contaminated; (4) transportation costs of household goods to temporary housing and back to the permanent residence; (5) utility subsidy covering the costs for essential utilities at the primary residence; (6) utility connection costs at the temporary housing residence; (7) kennel costs for up to thirty days; and (8) personal property purchasing or decontamination costs.

The method of application taking may vary among relocation sites. Potential relocatees will generally be personally notified by the administering entity. However, in larger operations, availability of assistance may be announced through the media.

FEMA redelegated to the Environmental Protection Agency (EPA) its authority under Executive Order 12316 to determine the need for temporary evacuation or housing of threatened individuals as part of any remedial or removal action. Once such a determination is made, FEMA is responsible for temporary relocation activities.

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. and has assigned OMB control numbers 3067-0156 and 3067-0168. 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 FEMA". The final rule will respond to any OMB or public comments on the information collection requirements.

Environmental considerations: Based on an environmental assessment, FEMA has determined that there will be no significant impact on the environment caused by implementation of the proposed regulation. An Environmental Impact Statement will not be prepared.

Regulatory Flexibility Act: The Agency has determined that this rule is not a major rule under Executive Order 12291 and I certify that the rule will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Hence, no regulatory impact analyses have been prepared.

List of Subjects in 44 CFR Part 220

Relocation assistance, Grants administration, Hazardous substances, Superfund.

Accordingly, it is proposed to amend subchapter D of Chapter 1 of Title 44, Code of Federal Regulations by adding a new Part 220, as follows:

PART 220—TEMPORARY RELOCATION ASSISTANCE

Sec.
220.1 Purpose.
220.2 Definitions.
220.3 Program intent.
220.4 Duplication of benefits.
220.5 Applications.
220.6 Eligibility criteria.
220.7 Eligible categories of assistance.
220.8 Ineligible categories.
220.9 Site security.
220.10 Fair market rent guidelines.
220.11 Tranfer of occupants.
220.12 Personal property acquisition.
220.13 Floodplain management guidelines.
220.14 Effective date of assistance.
220.15 Termination of assistance.
220.16 Appeals.
220.17 State administration of temporary relocation assistance.
220.18 Reports.

Authority: 42 U.S.C. 9601; Executive Order 12316.

§ 220.1. Purpose.

This part prescribes the policies to be followed by the Federal Emergency Management Agency (FEMA) or any State or local government when implementing Temporary Relocation Assistance under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), also known as Superfund.

§ 220.2 Definitions.

"Evacuation" means the emergency relocation of threatened individuals from an area. This activity is normally carried out by the State as part of its public health and safety responsibility.

"Fair market rent" means a reasonable amount to pay in the local area for the size and type of accommodations provided. (Formula is provided in § 220.10 of this part.)

"Household" means the residents of the pre-incident residence who request Temporary Relocation Assistance. It includes any authorized additions during the temporary housing period, such as infants, spouses, or part-time residents who were not present at the time of the announcement, but who are expected to return during the temporary housing period.

"Occupant" means an eligible applicant residing in temporary housing.

"Primary residence" means the dwelling where the applicant normally resides during the major portion of the calendar year, or a dwelling which is required because of proximity to employment.

"Transient accommodations" means hotels, motels or other similar accommodations which are utilized to assist eligible applicants who require temporary housing for only a short period of time, or who require such assistance pending provision of another temporary housing resource. Transient accommodations may be provided for up to 30 days unless this period is extended by the Regional Director FEMA or official designee.

§ 220.3 Program intent.

Temporary Relocation Assistance is intended to allow eligible individuals who are displaced from their primary residence in connection with a hazardous substance response action, to relocate for their own health and safety, and/or to allow the Environmental Protection Agency (EPA), or its agents to conduct clean-up activities. It is not intended to totally compensate these individuals for all expenses and losses associated with contamination of the site on which they reside. Assistance covers reasonable living expenses which are additional to the living expenses which existed prior to the relocation. Applicants are only eligible for categories of assistance where additional expenses are actually being incurred. This does not prohibit advance of funds or establishment of fixed funding rates for a certain category of assistance, when it is determined to be appropriate and cost-effective.

§ 220.4 Duplication of benefits.

(a) FEMA has determined that Temporary Relocation Assistance shall not be provided to an applicant if such assistance or its equivalent has been received from any other source. This also prohibits duplication of benefits by receipt of Temporary Relocation Assistance, and permanent relocation under CERCLA, or any disaster assistance. If any State or local government or volunteer agency has provided assistance for the same purpose as Temporary Relocation Assistance, Temporary Relocation Assistance under CERCLA shall not begin until such other assistance has terminated. In the instance of insured applicants, assistance shall not be provided if insurance proceeds are available, unless: there is a delay by the insurer in determining whether the proceeds will be available; there is ample reason to believe that payment of the proceeds may be significantly delayed; such proceeds have been exhausted; or, the proceeds are insufficient to provide the full cost of relocation benefits.

(b) Prior to provision of assistance, the insured applicant shall agree to repay FEMA from insurance proceeds he/she receives for additional living expenses, an amount equivalent to the value of the assistance provided, or that portion of insurance proceeds, whichever is less.

§ 220.5 Applications.

Applications for Superfund Temporary Relocation Assistance under CERCLA shall be accepted throughout the relocation period identified by EPA. Members of each household shall be included on a single application. Household members shall be provided a single residence unless the size of the household requires more than one residence.

(Approved by the Office of Management and Budget under OMB Control Number 3067-0168.)

§ 220.6 Eligibility criteria.

Temporary Relocation Assistance may be made available to those individuals displaced from their primary residence as a result of a determination by EPA that relocation is necessary. Temporary Relocation Assistance may be provided only to those who are in occupancy on the date of notification of families, unless otherwise specified in the determination concerning necessity of relocation. Temporary Relocation Assistance for a particular site shall be available only in the area identified by EPA through property addresses, site map or names of families.

§ 220.7 Eligible categories of assistance.

The following categories of assistance may be provided, based on individual needs:

(a) Temporary Housing. This may include locally available private rental (houses and apartments), including hotels/motels (transient accommodations). Sharing of accomodations with family and friends is an allowable form of assistance only when an eligible applicant elects it as his/her form of assistance. FEMA will pay fair market value for existing resources in accordance with the criteria in section 220.11 of this part. When authorized by the FEMA Regional Director, security deposits may be paid. Pet fees/deposits are authorized. All deposits must be recovered from the owner/agency or occupant, before or at the time that assistance is terminated. Utility expenses and cleaning fees at the temporary housing residence are the responsibility of the occupant(s).

(b) Food subsidy. A daily allotment may be provided to cover costs for food only when individuals are placed in hotels/motels or other *transient* accommodations which necessitate eating in restaurants.

(c) Furniture assistance. When it is impractical to move furniture to the temporary housing or when EPA has determined that furniture is contaminated, essential furniture may be provided to eligible occupants of unfurnished temporary housing. Furniture items are provided on a loan basis for the duration of the temporary relocation. Items provided shall be of average construction and quality. Luxury items shall not be provided. Essential items are to be provided in accordance with family size and needs, and include:

(1) Sofa

(2) Living room chair

(3) Floor lamp, with shade (per room without other light fixture)

(4) Dining table

(5) Dining chairs

(6) Range

(7) Refrigerator

(8) Bed or crib w/matress/box spring/frame

(9) Chest of drawers (per bedroom).

(d) Expenses for transportation of household goods. This shall include the reasonable cost of moving to temporary housing and back to the primary residence or to another permanent residence. It shall also include one move to a permanent residence when the individuals displaced decide to forego a move to temporary housing and move to permanent housing instead.

(e) Utility subsidy. Costs for essential utilities at the primary residence, only during the period of temporary housing, are authorized since these costs are additional to utility costs at the temporary housing resource, which are the responsibility of the occupant. Payment for essential utilities shall include basic minimum costs for gas, electricity, oil, water, sewer and telephone. If cost effective, winterization costs shall be paid as an alternative to utility subsidy. When permanent relocation is also authorized, utilities at the unoccupied primary residence should be disconnected, when practical, eliminating the need for utility subsidy.

(f) Utility connection costs. If the cost of connecting or turning on utilities cannot be waived at the temporary housing residence, such fees shall be paid for essential utilities, including gas, electricity, water, sewer and telephone. Also, if cost effective when compared to utilities subsidy, reconnection costs shall be paid at the primary residence.

(g) Kennel Costs. When necessary, payment for actual reasonable kennel costs shall be authorized for a period not to exceed 30 days.

(h) Personal property. Contaminated personal property shall be decontaminated or acquired by FEMA when EPA specifically determines the need for decontamination or acquisition as part of temporary relocation. Only reasonable actual expenditures shall be paid for decontamination of property, excluding applicant labor.

§ 220.8 Ineligible categories.

The following items shall not be eligible for payment under Temporary Relocation Assistance:

(a) Rental payments or mortgage payments for homes owned by the eligible applicant;

(b) Business losses. This does not prohibit use of a temporary housing residence for a home business. However, additional costs necessitated by the operation of a home business are not authorized;

(c) Personal transportation costs of any type associated with the relocation; and

(d) Insurance premiums for the temporary housing unit and the primary residence.

§ 220.9 Site security.

When requested by EPA, FEMA will provide site security. This will generally take the form of a contract for security personnel, although other types of security may be employed, when cost-effective.

§ 220.10 Fair market rent guidelines.

At each site, fair market rent guidelines for each size residence shall be established by averaging the cost of available residences per bedroom size for each locality where temporary housing will be provided. Where privately owned mobile homes are to be used, a separate guideline shall also be developed. Guidelines for hotel, motel and other short-term resources shall be developed only when there is a substantial variance in price among the available supply. The purpose of these fair market rent guidelines is to prevent development of an inflated rental market resulting from the incident and to insure cost-effectiveness. These guidelines reflect the desired maximum payment. Use of resources more costly than the guidelines may be authorized by FEMA for full payment only when other existing resources are not available. When less than 10 families are being relocated, fair market rent guidelines may be established by a less time consuming means, e.g., using an estimate provided by real estate agencies or conducting a sampling instead of a comprehensive survey.

§ 220.11 Transfer of occupants.

(a) Transfers Requested by Occupants. Occupants who request to transfer from one temporary housing unit to another, solely for their own convenience or for reasons necessitated through their fault, shall be responsible for all expenses associated with the move, including any increase in temporary housing rent.

(b) Transfers for Other Reasons. If FEMA initiates a transfer or if a transfer is necessitated for reasons which are not the fault of an occupant, all essential costs of the move shall be paid by FEMA. Such transfers shall be conducted in a manner that will cause minimum inconvenience to the occupants.

§ 220.12 Personal property acquisition.

When acquisition of personal property by FEMA is specifically requested by the (EPA) the following criteria shall apply:

(a) Payment shall be made for replacement value of similar items. With regard to valuable antiques, owners shall be paid whatever benefits they would have received if this incident had been covered by their insurance policy. If they have no insurance for personal property, owners shall be paid the cost of replacement with an ordinary item of similar quality with the same functional use.

(b) An itemized appraisal shall be required in all instances to include an itemization of value for each piece of property as opposed to a lump sum amount.

(c) The inventory shall be prepared to include the manufacturer name, model number and other information which might assist in establishing the quality and value of property to be acquired.

(d) Offers to acquire shall be in writing, including a list of items to be purchased. However, the total value assigned should be presented, rather than an itemized valuation.

(e) A written sales contract shall specify what is being purchased and the terms and conditions of the sale as well as any responsibilities of the seller and the buyer.

(f) Strict controls shall be established regarding management of acquired property until such time as disposition has been resolved by EPA.

§ 220.13 Floodplain management guidelines.

FEMA has determined that placement of families in existing resources under Temporary Relocation Assistance is exempt from the floodplain management requirements of Part 9 in 44 CFR 9.5c(14). However, efforts shall be made to use existing resources outside of the floodplain when possible and families shall be notified in writing when they are referred by FEMA to existing resources which are in the floodplain. Referrals shall not be made to existing resources in the floodplain within communities which are not participating in the National Flood Insurance Program.

§ 220.14 Effective date of assistance.

The effective date of assistance is the date the applicant obtains his/her own authorized accommodations or the date FEMA provides assistance. Temporary Relocation Assistance may be provided as of the date identified by EPA in the determination of need for Temporary Relocation Assistance.

§ 220.15 Termination of assistance.

Termination of temporary housing may be initiated with a 15-day written notice, after which the occupant shall be liable for such additional charges as are deemed appropriate by the Regional Director including, but not limited to, the fair market rental for the temporary housing residence. Termination may be in the form of eviction from temporary housing (if FEMA leased the housing) or termination of financial assistance (if cash payment is made to the occupant).

(a) *Grounds for termination.* Temporary housing may be terminated for reasons including, but not limited to, the following:

(1) A determination has been made by EPA that the residence from which the occupant was displaced is now available for occupancy.

(2) FEMA has determined that the temporary housing occupant has failed to comply with the terms of the lease or reimbursement agreement.

(3) An offer for permanent acquisition of the housing from which the individual has been displaced has been made (and the time period for temporary housing allocated by FEMA's permanent relocation plan for the specific location involved has passed). This includes an offer or relocation assistance, if appropriate.

(4) The temporary housing occupant has failed to take due care of the temporary dwelling.

(5) FEMA has determined that temporary housing was obtained through misrepresentation or fraud.

(6) The temporary housing occupant has failed to pay utilities or other charges, responsibility for which has been assigned by the lease or reimbursement agreement.

(7) FEMA has determined that the temporary housing occupant has permanently relocated to a new location.

(b) *Termination procedures:* These procedures shall be utilized in all instances, except when a State is administering the Temporary Relocation Assistance Program. States shall be subject to their own procedures provided they afford the occupant(s) due process safeguards described in paragraph (b)(5)(iv) of this section.

(1) *Notification of Occupants.* Written notice shall be given by FEMA (or the entity designated to administer the program) to the occupant(s) at least 15 days prior to the proposed termination of assistance. This notice shall specify: the reasons for termination of assistance/occupancy; the date of termination, which shall be not less than 15 days after receipt of the notice; the administrative procedure available to the occupant(s) if he/she wishes to dispute the action; and the occupant's liability after the termination date for additional charges.

Exception: Where the temporary housing occupants have been informed in writing, prior to receiving assistance from FEMA that the duration of the temporary housing assistance will be 30 days or less, there is no requirement for a written notice. The notice of the limited duration of such assistance or occupancy will also serve as notice of termination of the assistance or occupany. Those occupants will be notified by telephone or personal conversation of the exact date of termination of assistance. If occupying FEMA leased housing, occupants shall be required to leave within 24 hours from the time of the conversation regarding termination.

(2) *Filing of Appeal.* If the occupant desires to dispute the termination of temporary housing assistance, upon receipt of the written notice specified in paragraph (b)(1) of this section, he/she shall present the appeal in writing to the appropriate FEMA office in person or by mail within 5 business days. The appeal must be signed by the occupant and state the reasons why the assistance or occupancy should not be terminated. If a hearing is desired, the appeal should so state.

(3) *Response to Appeal.* If a hearing pursuant to paragraph (b)(2) of this section has not been requested, the occupant will be deemed to have waived the right to a hearing. Under such circumstances, the appropriate FEMA official shall deliver or mail a written response to the occupant within 5 business days after the receipt of the appeal.

(4) *Request for a hearing.* If the occupant requests a hearing pursuant to paragraph (b)(2) of this section, FEMA shall schedule a hearing date within 10 business days from the receipt of the appeal, at a time and place reasonably convenient to the occupant, who shall be notified promptly thereof in writing. The notice of hearing shall specify the procedure governing the hearing.

(5) *Hearing.* (i) Hearing Officer. The hearing shall be conducted by a Hearing Officer who shall be designated by the FEMA Regional Director, and who shall not have been involved with the decision to terminate the occupant's temporary housing assistance, nor be a subordinate of any individual who was so involved.

(ii) *Due Process.* The occupant shall be afforded a fair hearing and provided the basic safeguards of due process, including cross-examination of the responsible official(s), access to the documents on which FEMA is relying, the right to counsel, the right to present evidence, and the right to a written decision.

(iii) *Failure to appear.* If an occupant fails to appear at a hearing, the Hearing Officer may make a determination that the occupant has waived his/her right to a hearing, or may, for good cause shown, postpone the hearing for no more than 5 business days.

(iv) *Proof.* At the hearing, the occupant must first attempt to establish that continued assistance is appropriate; thereafter, FEMA must sustain the burden of proof in justifying that the termination is appropriate. The occupant shall have the right to present evidence and arguments in support of his/her complaint, to disprove evidence relied on by FEMA, and to confront in a reasonable manner and cross-examine all witnesses on whose testimony or information FEMA relies. The hearing shall be conducted by the Hearing Officer and any evidence pertinent of the facts and issues raised may be received without regard to its admissibility under rules of evidence employed in formal judicial proceedings.

(6) *Decision.* The decision of the Hearing Officer shall be based solely upon applicable Federal and State law, and FEMA regulations and requirements promulgated thereunder. The Hearing Officer shall prepare a written decision setting forth a statement of findings and conclusions together with the reasons therefore, concerning all material issues raised by the complainant within 5 business days after the hearing. The decision of the Hearing Officer shall be binding on FEMA which shall take all actions necessary to carry out the decision or refrain from any actions prohibited by the decision, unless the FEMA General Counsel determines and notifies the complainant in writing within 30 days, or such additional time as FEMA may for good cause allow, that the decision of the Hearing Officer is not legally supportable.

(i) If the determination is to evict, the decision shall include a notice to the occupant that he/she must vacate the premises within 3 days of receipt of the written notice or on the termination, as required in paragraph (b)(2) of this section, whichever is later. If the occupant does not quit the premises, appropriate action shall be taken and, if suit is brought, the occupant may be required to pay court costs and attorney fees.

(ii) If the determination is to terminate financial assistance, such assistance shall be terminated in accordance with the original notice given pursuant to paragraph (b)(2) of this section. If the occupant is required to give a specific number of days notice to the landlord which exceeds the number of days in the termination notice, the Regional Director, may approve the payment of rent for this period of time if requested by the occupant.

§ 220.16 Appeals.

Eligibility Determination. An applicant declared ineligible for Temporary Relocation Assistance pursuant to these regulations shall have the right to appeal such determination at any time during the authorized site specific relocation period. The FEMA Regional Director shall consider the appeal within 2 weeks after its receipt. The applicant shall receive written notice of the disposition of the appeal. The decision of the FEMA Regional Director is final.

§ 220.17 State administration of temporary relocation assistance.

When administering this program, the State must comply with FEMA regulations and policies. The State shall maintain adequate documentation to enable analysis of the program in accordance with regulations, manuals, handbooks and guidance.

(a) *Site specific plan.* When it is agreed that a State will administer all or part of temporary relocation activity, the State must submit a site-specific Temporary Relocation Assistance Plan for approval by the Regional Director or official designee. This plan shall include the items listed below:

(1) Budget and estimated outlay schedule;

(2) Timeframes within which tasks will be completed;

(3) Assignment of relocation responsibilities to State and/or local officials or agencies;

(4) Method for notifying affected residents and taking applications;

(5) Method for developing fair market rent guidelines;

(6) Requirement for transient accommodations;

(7) Amount of food subsidy and the

method for development of same;

(8) Policy for paying utility subsidy and/or connection costs;

(9) Method for providing site security, when requested by FEMA;

(10) Method for payment for acquisition of contaminated personal property, when requested by EPA;

(11) Termination procedures;

(12) Contracting procedures;

(13) Quality control procedures;

(14) Documentation and control system provisions; and

(15) Arrange for program review.

(Approved by the Office of Management and Budget under OMB Control Number 3067-0156.)

(b) *Authorized Costs.* All expenditures associated with administering the relocation activity are authorized if in compliance with this part, applicable FEMA/State Cooperative Agreements, and OMB Circular A-87 Revised, Costs Principles for State and Local Governments (46 FR 9548), and FEMA regulations.

(c) *Federal Monitoring and Oversight.* The Regional Director shall monitor State-administered activities since he/she remains responsible for the delivery of Temporary Relocation Assistance. In addition, policy guidance and interpretations to meet specific needs of an incident shall be provided through the oversight function. As determined necessary by FEMA, monitoring and oversight functions shall include on-site program reviews.

(d) *Technical Assistance.* The Regional Director shall provide technical assistance as necessary to support State-administered operations through training, procedures, issuances and by providing experienced personnel to assist the State or local staff.

(e) *Audits.* The State shall conduct a program review of each operation. All site-specific activities are subject to Federal audit.

§ 220.18 Reports.

The Associate Director for State and Local Programs and Support and the Regional Director may require from field operations such reports, plans and evaluations as they deem necessary to carry out their responsibilities under these regulations.

Dated: May 30, 1986.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 86-12635 Filed 6-10-86; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 80-286]

Amendment of the Rules and Establishment of a Joint Board; Request for Comments and Data

AGENCY: Federal Communications Commission.

ACTION: Order Inviting Comments and Request for Data.

SUMMARY: The Federal-State Joint Board requests data and further comments concerning the separations procedures for Central Office Equipment (COE), particularly Category 6, Local Dial Switching Equipment, and Category 8, Circuit Equipment. This Order is part of the Joint Board's comprehensive review of the procedures for allocating local exchange costs between the state and interstate jurisdictions in CC Docket No. 80-286. The Joint Board asked the local telephone companies to calculate the effect of several alternative approaches to the allocation of Categories 6 and 8 COE costs on state and interstate revenue requirements. The Joint Board's objective is to develop a complete record concerning all COE issues which will allow a comprehensive revision of this portion of the separations rules, 47 CFR Part 67.

DATES: The COE data, except the information on the revenue requirement effect of the alternative Category 8 COE proposals and comments concerning revision of the separations procedures for COE costs, must be filed by July 11, 1986. The data concerning alternative Category 8 COE proposals as well as supplemental comments concerning the allocation of Category 8 COE costs are to be filed by September 12, 1986. Replies concerning all issues are to be filed by October 10, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael Wilson, Chief, Audits Branch, Accounting and Audits Division, Common Carrier Bureau, (202) 632-7500.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal-State Joint Board's Order Inviting Comments and Request for Data, CC Docket No. 80-286, Adopted April 16, 1986 and released May 7, 1986.

The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of the decision may also be purchased from the Commission's copy contractors, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Summary of Order Inviting Comments and Request for Data

1. The Commission convened this Federal-State Joint Board (Joint Board) pursuant to section 410(c) of the Communications Act, 47 U.S.C. section 410(c), by instituting CC Docket No. 80-286 in *Amendment of Part 67 of the Commission's Rules and Establishing of a Joint Board,* 78 FCC 2d 837 (1980) (Notice of Proposed Rulemaking and Order Establishing a Joint Board). This docket was intended to reexamine the procedures for the allocation of local exchange costs between the state and the interstate jurisdictions. After issuing several decisions regarding local exchange costs, the Commission released a Further Notice of Proposed Rulemaking in CC Docket Nos. 78-72 and 80-286, *MTS and WATS Market Structure and Amendment of Part 67 of the Commission's Rules,* 49 FR 18319 (April 30, 1984). The Commission asked the Joint Board, among other things, to undertake a comprehensive review of the separations procedures for all COE and interexchange costs and recommend revisions where appropriate. As part of this review, the Commission asked the Joint Board to examine the existing categorization of COE plant and the factors for allocating COE costs between the jurisdictions. The Joint Board released Order Inviting Comments on June 25, 1985, requesting preliminary comments concerning the existing separations procedures for COE and interexchange plant costs. *Amendment of Part 67 of the Commission's Rules,* 50 FR 31747 (August 6, 1985).

2. After summarizing the preliminary comments filed in 1985, the Joint Board stated that those comments indicate a general consensus that the Joint Board should focus first on a reexamination of the separations procedures for Categories 615 and 816 COE, although many of the parties also emphasized the need for simplification of the separations process. Thus, based on the preliminary comments, the Joint Board decided to proceed with a comprehensive reexamination of the separations procedures for all COE. To facilitate analysis of these issues, the Joint Board requested data concerning the costs in all the existing COE categories. The Joint Board also requested estimates of the state and interstate revenue requirements for

Categories 6 and 8 under the exiting separations procedure as well as the alternative methods of allocating these costs described in Attachments B and C to the Order. These alternatives were intended to reflect a range of approches to the separation of these costs and provide the Joint Board with a benchmark for judging the effect of a variety of possible solutions to the problems which currently exist with regard to Categories 6 and 8 COE.

3. Interested parties are asked to address the merits of the alternative separations procedures for Categories 6 and 8 COE set out in the Attachments to the Order and propose any other approaches they believe would be desirable. In addition to the specific issues set forth in the Order and in the Attachments, the Joint Board requested that parties address any other issues concerning the categorization or allocation of COE, including any separations problems involving COE Categories other than 6 and 8, as well as proposals for simplification of the separations procedures applicable to COE costs. The Joint Board's objective in this proceeding is to develop a complete record concerning all COE issues which will allow a comprehensive revision of this portion of the separations rules.

Paperwork Reduction Act

The proposal contained herein has been analyzed with respect to the Paperwork Reduction 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.

Comments

Pursuant to the applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties are invited to file comments and submit data in accordance with the schedule set forth in the ordering clauses. All relevant and timely comments will be considered by the Joint Board before final action is taken in this proceeding.

Ordering Clauses

Accordingly, it is ordered, that data concerning COE costs, except information on the revenue requirement effect of the alternative Category 8 COE proposals are to be filed with the Secretary, Federal Communications Commission no later than July 11, 1986. It is further ordered, that comments concerning revision of the separations procedures for COE costs are also to be filed with the Secretary no later than July 11, 1986.

It is further ordered, that data concerning the alternative Category 8 COE proposals are to be filed no later than September 12, 1986. It is further ordered, that replies concerning all issues are to be filed by October 10, 1986.

It is further ordered, that all parties filing data and comments or replies shall serve copies on the Joint Board members and staff listed in Appendix D to the Order.

This action is taken pursuant to sections 1, 4 (i) and (j), 221(c) and 410(c) of the Communications Act, 47 U.S.C. sections 151, 154 (i) and (j), 221(c) and 410(c).

List of Subjects in 47 CFR Part 67

Communications common carriers, Juridictional separations, Local exchange costs, Central Office Equipment, telephone.

William J. Tricarico,

Secretary.

[FR Doc. 86-13004 Filed 6-9-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 654

[Docket No. 60603-6103]

Stone Crab Fishery of the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement conservation and management measures as prescribed in Amendment 3 (Amendment) to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP). This rule would provide for measures designed to (1) increase the survival rate of declawed crabs and of the eggs of egg-bearing females, (2) allow for a hardhsip extension for removal of traps, and (3) delete the FMP reporting requirement. The intended effect is to increase productivity of the stock and to remove unnecessary reporting burdens from person in the fishery.

DATE: Comments on the proposed rule must be received on or before July 18, 1986.

ADDRESS: Comments on the proposed rule, the Amendment, or supporting documents should be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Copies of the Amendment, the environmental assessment, and the supplemental regulatory impact review/initial regulatory flexibility analysis are available upon request.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: The FMP manages the stone crab fishery in the fishery conservation zone (FCZ) of the Gulf of Mexico (Gulf) off the State of Florida (State). The proposed rule applies only to this area. During 1985 the Gulf of Mexico Fishery Management Council (Council) and the State, through its Florida Marine Fisheries Commission (FMFC), conducted monitoring evaluations of the effectiveness of State and Federal management of the stone crab fishery and evaluated all new scientific information on the resource. As a result of this monitoring effort the FMFC Implemented rule changes for waters under State jurisdiction to increase the survival of declawed crabs returned to the water and abundance of larvae produced by egg-bearing females taken in the fishery. The FMFC also provided an extenion to the five-day period for removal of traps after the closure of the season, such extension being granted only upon individual request and for reasons related to hardship (i.e., hazardous weather, medical emergencies, or equipment breakdown). The Council, in its review of FMP effectiveness, concurred with the need for changes implemented by the State. This proposed Amendment would implement these changes making State and Federal rules compatible.

The first of these proposed Amendment measures involves a change in the procedure for holding live crabs aboard a vessel before they are declawed and would require the crabs kept in a damp condition. Recent scientific information indicates that this would result in survival rates approximately the same as if the crabs were immediately returned to the water. It is anticipated that this would result in an additional 12 to 15 percent harvest potential for the fishery. This proposed measure also modifies the current rule requiring declawed crabs to be returned to the sea before the vessel leaves the FCZ. The change makes the Federal rule compatible with the State rule which requires such crabs to be returned to the sea before the vessel reaches the shore or a dock or a port. It is inefficient for fishermen to stop and declaw all crabs

before leaving the FCZ rather than declawing them as they proceed to shore through the nine nautical miles of State jurisdiction. Furthrmore, declawing while the vessel is underway disperses the crabs over a large area, providing better opportunity for survival.

The second proposed measure would require that egg-bearing females be returned to the water immediately without harvesting the claws. Scientific information indicates a significant reduction in the viability of eggs exposed to air. The requirement prohibiting possession (i.e., requiring immediate return to the water) would result in increased recruitment of larvae to the fishery, which has had declines in landings over the last two seasons.

The third proposed measure providing for a ten-day hardship extension for removal of traps, upon request to the State of Florida, would accommodate the industry's need for relief for unforseen circumstances preventing removal during the current five day removal period. This would prevent fishermen from unintentionally being in violation of the trap removal requirement and should result in fewer abandoned traps.

The Council proposes to delete the mandatory reporting requirement of the FMP and to utilize data collected under the State reporting system for management of the fishery. The FMP reporting requirement was implemented in 1979 (44 FR 53520). In 1985 the State implemented a trip ticket system which collects essentially the same information. This resulted in an unnecessary burden on persons in the fishery who are required to report under two systems.

The rule also proposes that vessels in the fishery be identified by a standardized identification system common to other fisheries managed by other Council FMPs. The proposed measure specifies that such a system would be implemented by regulatory amendment at such time as the State adopts a compatible system; therefore, no regulation change is proposed at this time.

Several minor conforming changes are made to the existing rules. The hearing for § 654.6 is changed from "Restrictions" to "Prohibitions" to agree with other FMP implementing regulations. The section is expanded to cover all parts of this and the existing rule to assist in law enforcement.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 97–453, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 30 days of receipt of an FMP Amendment and regulations. At this time the Secretary has not determined that the Amendment these rules 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 for this Amendment and concluded that there will be no significant impact on the environment as a reult of this rule. A copy of the environmental assessment may be obtained at the **ADDRESS** listed above.

The Administrator of NOAA has determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under Executive Order 12291. The Amendment's management measures are designed to increase production of crabs which have regenerated claws that may be harvested, increase the potential for larval recruitment to the fishery, provide relief for the fishermen for removal of traps under hardship conditions, and eliminate an unnecessary reporting burden on persons in the fishery.

This proposed rule is exempt from the procedures of Executive Order 12291 under section 8(a)(2) of that order. Deadlines imposed under section 304 of the Magnuson Act, as amended by Pub. L. 97–453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule 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 Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review which concludes that this proposed rule, if adopted, would have significant economic effects on a substantial number of small entities. The availability of claws from crabs which have been declawed, and which regenerate new claws for harvest the following season, should be doubled to reach the 24 to 30 percent level. This corresponds to an anticipated annual exvessel value of $893,000 to $1,116,000 or $1,900 to $2,400 per vessel. The increase in production potential will considerably more than offset production losses ($90 per vessel) resulting from a prohibition on declawing egg-bearing female crabs. This prohibition will result in increased (but unquantifiable) larval production available for recruitment to the fishery, which has had declining landings for the past two seasons. The deletion of the reporting requirement of the FMP will result in elimination of approximately 400 man-hours of Federal reporting burden, annually, without affecting the availability of data to manage the fishery.

Federal and State enforcement costs are anticipated to remain essentially unchanged, with a slight reduction of Federal costs associated with enforcement of the reporting requirements of the FMP. A copy of this analysis may be obtained at the **ADDRESS** above.

This proposed rule modifies a collection of information requirements subject to the Paperwork Reduction Act (PRA), by deleting the mandatory Federal system approved by the Office of Management and Budget (OMB control number 0648–0016).

The Council determined that this rule will be implemented in a manner that is consistent with the maximum extent practicable with the approved coastal zone management program of the State of Florida. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 654

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 4, 1986.

Carmen J. Blondin,

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

PART 654—STONE CRAB FISHERY OF THE GULF OF MEXICO

For reasons set forth in the preamble, 50 CFR Part 654 is proposed to be amended as follows:

1. The authority citation for Part 654 continues to read as follows:

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

2. In Part 654, the Table of Contents is amended by removing and reserving § 654.5, "Recordkeeping and Reporting Requirements" and by revising the title of § 654.6 "Restrictions" to read "Prohibitions".

§ 654.5 [Removed and reserved]

3. Section 654.5 is removed and reserved.

4. Section 654.6 is amended by revising the title to read "Prohibitions", removing the word "to" at the beginning of paragraphs (a) (1), (2), and (4) through

(7), revising the introductory text of paragraph (a), revising paragraph (a)(6), and adding new paragraphs (a) (8) through (22) to read as follows:

§ 654.6 Prohibitions.

(a) It is unlawful for any person to do any of the following:

* * * * *

(6) Falsify any report submitted under this part;

* * * * *

(8) Fish for stone crabs in the FCZ with other than a U.S. vessel which is properly documented registered or numbered as required in § 654.4(a);

(9) Falsify or fail to display the vessel's appropriate documentation or registration number and the appropriate stone crab number and color code as specified in § 654.4(b) (2) and (3);

(10) Falsify or fail to mark all stone crab traps and trap buoys with their Florida permit number and color code or their Federal number and color code as specified in § 654.4(b) (1) and (3);

(11) Remove from stone crabs, to possess in the FCZ, regardless of where taken, stone crab claws with a propodus (Figure 2) measuring less than 2¾ inches or to remove, possess, or land stone crab claws from stone crabs taken in the FCZ with propodus measuring less than 2¾ inches as specified in § 654.20(a);

(12) Fail to return declawed stone crabs to the sea prior to the vessel reaching port, shore, or dock as specified in § 654.20(b);

(13) Fail to store stone crabs at sea in containers protected from direct sunlight, and in a manner which does not compress the crabs as specified in § 654.20(b);

(14) Fail to keep stored stone crabs damp by wetting as necessary, as specified in § 654.20(b);

(15) Tend, open, pull, or otherwise molest or have in possession aboard a vessel another person's stone crab traps except as specified in § 654.20(c);

(16) Tend, open, pull, or otherwise molest sone crab traps except during the hours specified in § 654.20(d);

(17) Possess at sea, land, or fail immediately to return to the sea egg-bearing female stone crabs or to remove eggs or claws from egg-bearing female stone crabs as specified in § 654.20(e);

(18) Take or possess stone crabs or any part thereof in the FCZ during the closed season specified in § 654.22(a); except as provided by § 654.22(a)(3).

(19) Have stone crab traps in the water before or after the dates specified in § 654.22(a);

(20) Trawl in a closed area of the FCZ during the time periods specified in § 654.23(a);

(21) Place stone crab traps in a closed area in the FCZ as specified in § 654.23(b)(1); or

(22) Place into the FCZ any article as specified in § 654.23(b)(2).

* * * * *

5. Section 654.20 is amended by revising paragraph (b) and by adding a new paragraph (e), to read as follows:

§ 654.20 Catch limitations.

* * * * *

(b) *Holding crabs aboard fishing vessels.* Stone crab bodies from which the claws have been removed must be returned to the water at sea before the vessel reaches shore or a port or a dock. Live stone crabs may be held aboard a vessel while it is at sea until such time as the claws are removed, provided the crabs are held in containers shaded from direct sunlight and are wet with sea water as necessary to keep the crabs in a damp condition. Containers holding stone crabs must be stacked in a manner which does not compress the crabs.

* * * * *

(e) *Egg bearing female crabs.* It is prohibited to remove claws from egg-bearing female stone crabs or to have any egg-bearing female stone crabs aboard a vessel or to remove the eggs from any stone crab. Egg-bearing female stone crabs must be returned to the sea immediately.

6. Section 654.22 is amended to revising paragraphs (a) and (b) to read as follows:

§ 654.22 Closed seasons.

(a) No person may possess stone crabs or any parts thereof in the FCZ during the period from 0001 hours (local time) May 16, through 2400 hours (local time) on October 14.

(1) Prior to the fishing season, baited traps may be placed in the water one hour before sunrise on October 5 (soak period).

(2) After the fishing season, traps must be removed from the water by one hour after sunset on May 20 (removal period), unless an extension to the removal period is granted by the State of Florida in accordance with Chapter 46–13, Stone crab, Rules of the Department of Natural Resources, Florida Marine Fisheries Commission, Florida Administrative Code.

(3) Holding crabs in traps while in the water during the soak period (October 5–14) or during the removal period (May 16–20), or during an extension thereto, will not be deemed as possession provided that such crabs are returned immediately to the water with claws unharvested whenever the traps are removed from the water during these periods.

(4) No traps may be transported on or set in the waters of the FCZ between one hour after sunset on May 20 (or May 30, if an extension to the removal period is granted) and one hour before sunrise on October 5.

(b) Stone crab traps, floats, or ropes in the management area at times not authorized in paragraph (a) will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Secretary or an authorized officer. Owners of these stone crab traps remain subject to appropriate civil penalties.

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Notices

Federal Register
Vol. 51, No. 111
Tuesday, June 10, 1986

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Fire-Cured (Type 21), Fire-Cured (Types 22-23), Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder (Types 51-52), and Cigar-Filler and Binder (Types 42, 43, 44, 53, 54, & 55) Tobaccos; 1986-87 Marketing Quotas and Acreage Allotments

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination of 1986-87 Marketing Quotas and Acreage Allotments.

SUMMARY: The purpose of this notice is to affirm determinations which were made by the Secretary of Agriculture on January 31, 1986, with respect to the 1986 crops of fire-cured (type 21), fire-cured (types 22-23), dark air-cured, Virginia sun-cured, cigar-binder, and cigar-filler and binder tobaccos. In addition to other determinations, the Secretary declared national acreage allotments for the following kinds of tobaccos: fire-cured (type 21), 7,621 acres; fire-cured (types 22-23), 19,678 acres; dark air-cured, 6,166 acres; Virginia sun-cured, 1,030 acres; cigar-binder (types 51-52), 1,961 acres; and cigar-filler and binder (types 42-44 & 53-55), 9,185 acres.

Separate referenda for cigar-binder (types 51-52) and Virginia sun-cured tobaccos were held during the period February 24-27, 1986, by mail ballot to determine whether these producers favor quotas for the next three marketing years. Producers disapproved marketing quotas for cigar-binder (types 51-52) tobacco.

EFFECTIVE DATE: January 31, 1986.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

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 classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

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

The purpose of this notice is to affirm the determinations of the national marketing quotas for the 1986 crops of fire-cured (type 21), fire-cured (types 22-23), dark air-cured, sun-cured, cigar-binder (types 51-52), cigar-filler and binder (types 42-44 & 53-55) tobacco which were announced by the Secretary on January 31, 1986 and to set forth certain other determinations with respect to these kinds of tobacco. On January 31, 1986 the Secretary also announced that the referenda to be conducted with respect to cigar-binder (types 51-52) and sun-cured tobacco would be conducted by mail.

In accordance with section 312(a) of the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), the Secretary of Agriculture is required to proclaim not later than February 1 of any marketing year with respect to any kind of tobacco, other than flue-cured tobaco, a national marketing quota for any kind of tobacco for each of the next 3 marketing years if such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. With respect to sun-cured tobacco, the 1985-86 marketing year is the last year of three such consecutive years. Accordingly, a marketing quota for sun-cured tobacco is proclaimed for each of the three marketing years beginning October 1, 1986, October 1, 1987, and October 1, 1988. Since producers of cigar-binder (types 51-52) tobacco have not disapproved quotas for 3 consecutive years, the Secretary is required in accordance with section 312(a) of the Act to proclaim quotas for this kind of tobacco. Sections 312 and 313 of the Act also provide that the Secretary shall announce the reserve supply level and the total supply of fire-cured (type 21), fire-cured (types 22-23), dark air-cured, Virginia sun-cured, cigar-binder (types 51-52), and cigar-filler and binder (types 42-44 & 53-55) tobaccos for the marketing year beginning October 1, 1985, and the amounts of the national marketing quotas, national acreage allotments, and national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for fire-cured (type 21), fire-cured (types 22-23), dark air-cured, Virginia sun-cured, cigar-binder (types 51-52), cigar-filler and binder (types 42-44 & 53-55) tobaccos for the 1986-87 marketing year.

Section 312(b) of the Act provides, in part, that the amount of the national marketing quota for a kind of tobacco is the total quantity of that kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. Since

producers of these kinds of tobacco generally produce less than their respective national acreage allotments, it has been determined that a larger quota would be necessary to make available production equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the average quantity produced and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the average quantity produced in and exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

In accordance with the provisions of section 317(c) of the Act, it has been determined that marketing quotas on an acreage-poundage basis will not be announced for the 1985–86 marketing year for any of these kinds of tobaccos since such quotas would not result in a more effective marketing quota program for such kinds of tobacco.

On November 14, 1985, a Notice of Proposed Determination was published (50 FR 48814) in which interested persons were requested to comment with respect to these issues.

Discussion of Comments

Fifteen written responses were received in response to the Notice of Proposed Determination. Some of these comments addressed the establishment of quotas with respect to more than one kind of tobacco. A summary of these comments by kind of tobacco is as follows:

Fire-cured (type 21) tobacco: Four comments were received. All of these comments recommended that the marketing quotas established for this kind of tobacco be estblished on an acreage basis at the same level which was applicable for the 1985 marketing year.

Virginia sun-cured (type 37) tobacco: Three comments were received. All of these comments recommended that marketing quotas established for this kind of tobacco be established on an acreage basis at the same level which was applicable for the 1985 marketing year.

Fire-cured (types 22–23) tobacco: Two comments were received. they recommended that the marketing quota be reduced by 5 to 10 percent from the 1985 marketing quotas.

Dark air-cured tobacco: Three comments were received. All comments recommended that the marketing quota be reduced by 25 percent from the 1985 marketing year.

Cigar binder (types 51–52) tobacco: No comment were received.

Cigar-filler and binder (types 42–44 & 53–55) tobacco: Three comments were received. Two recommended that marketing quotas established for this kind of tobacco be established on an acreage basis at the same level which was applicable for the 1985 marketing year.

One comment recommended that the markeing quota should be decreased by 30 percent from 1985.

No comments were received with respect ot the method of holding a referendum.

Based upon a review of these comments and the latest available statistics of the Federal Government, the following determinations have been made by th Administrator, Agricultural Stabilization and Conservation Service:

Fire-Cured (Type 21) Tobacco

The yearly average quantity of fire-cured (type 21) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1985–86 marketing year was approximately 2.3 million pounds. The average annual quantity of fire-cured (type 21) tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1985–86 marketing year was 2.9 million pounds (farm sales weight basis). Both domestic use and exports have fluctuated erratically. Accordingly, a normal year's domestic consumption has been determined to be 2.2 million pounds and a normal year's exports have been determined to be 3.0 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 11.6 million pounds.

Manufacturers and dealers reported stocks of fire-cured (type 21) tobacco held on October 1, 1985, of 10.0 million pounds. The 1985 fire-cured (type 21) tobacco crop is estamied to be 4.4 million pounds. Therefore, the total supply of fire-cured (type 21) tobacco for the 1985–86 marketing year is 14.4 million pounds. During the 1985–86 marketing year, it is estimated that disappearance will total approximately 6.5 million pounds. By deducting this disappearance from the total supply, a carryover of 7.9 million pounds at the beginning of the 1986–87 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1986 is 3.7 million pounds. This represents the quantity of fire-cured (type 21) tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level.

During the past 5 years, slightly less than half of the announced national marketing quota has been produced. Accordingly, it has been determined that a national marketing quota of 7.5 million pounds is necessary to make available production of 3.7 million pounds. Increasing the quota by 20 percent in accordance with section 312(b) of the Act to 9.0 million pounds is necessary to avoid undue restriction of marketings. This results in the 1986–87 national marketing quota of 9.0 million pounds.

In accordance with section 313(g) of the Act, the 1986–87 national marketing quota divided by the 1981–85, 5-year national average yield of 1,181 pounds per acre results in a 1986 national acreage allotment of 7,620.66 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 67.0 acres, by the total of 1986 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Fire-Cured (Types 22–23) Tobacco

The yearly average quantity of fire-cured (types 22–23) tobacco produced in the United States which is estimated to have been consumed in the United

States during the 10 years preceding the 1985–86 marketing year was approximately 16.1 million pounds. The average annual quantity of fire-cured (types 22–23) tobacco produced in the United States and exported during the 10 marketing years preceding the 1985–86 marketing year was 19.3 million pounds (farm-sales weight basis). Domestic use and exports fluctuate widely. Accordingly, a normal year's domestic consumption has been determined to be 25.9 million pounds and a normal year's exports have been determined to be 25.0 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 118.0 million pounds.

Manufacturers and dealers reported stocks of fire-cured (types 22–23) tobacco on October 1, 1985, of 84.3 million pounds. The 1985 fire-cured (types 22–23) crop is estimated to be 43.9 million pounds. Therefore, the total supply of fire-cured (types 22–23) tobacco for the marketing year beginning October 1, 1985, is 128.2 million pounds. During the 1985–86 marketing year, it is estimated that disappearance will total approximately 38.0 million pounds. By deducting this disappearance from the total supply, a carryover of 90.2 million pounds at the beginning of the 1986–87 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1986 is 27.8 million pounds. This represents the quantity of fire-cured (types 22–23) tobacco which may be marketed which will make available during the 1986–87 marketing year a supply equal to the reserve supply level. During the past 5 years, slightly over 90 percent of the announced national marketing quota has been produced. Accordingly, it has been determined that a national marketing quota for the 1986–87 marketing year of 30.6 million pounds is necessary to make available production of 27.8 million pounds. In accordance with section 312(b) of the Act, it has been further determined that the 1986–87 national marketing quota must be increased by 20 percent in order to avoid undue restriction of marketings. This results in a national marketing quota for the 1986–87 marketing year of 36.7 million pounds.

The national acreage allotment for the 1986–87 marketing year is determined to be 19,678.28 acres. In accordance with section 313(g) of the Act, the national marketing quota for the 1986–87 marketing year has been divided by the 1981–85, 5-year national average yield of 1,865 pounds per acre, to obtain a national acreage allotment of 19,678.28 acres, for the 1986–87 marketing year.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of .875 is determined by dividing the national acreage allotment for the 1986–87 marketing year less a national reserve of 159 acres by the total of the 1986 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Dark Air-Cured Tobacco

The yearly average quantity of dark air-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1985–86 marketing year was approximately 13.7 million pounds. The average annual quantity produced domestically and exported during this period was 2.1 million pounds (farm-sales weight basis). Both domestic use and exports have been erratic. Accordingly, 18.4 million pounds have been used as a normal year's domestic consumption and 2.6 million pounds have been used as a normal year's exports. Application of the formula required by section 301(14)(B) of the Act results in a reserve supply level of 57.6 million pounds.

Manufacturers and dealers reported stocks of dark air-cured tobacco held on October 1, 1985, of 47.8 million pounds. The 1985 dark air-cured crop is estimated to be 15.7 million pounds. Therefore, the total supply for the market year beginning October 1, 1985, is 63.5 million pounds. During the 1985–86 marketing year, it is estimated that disappearance will total approximately 14.0 million pounds. By deducting this disappearance from the total supply, a carryover of 49.5 million pounds at the beginning of the 1986–87 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1986 is 8.1 million pounds. This represents the quantity of dark air-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. During the last 5 years, about 85 percent of the announced national marketing quota has been produced. Accordingly, it has been determined that a national marketing quota for the 1986–87 marketing year of 9.6 million pounds is necessary to make available production of 8.1 million pounds. In accordance with section 312(b) of the Act, it has been further determined that the 1986–87 marketing quota must be increased by 20 percent in order to avoid undue restriction of marketings. This results in a national marketing quota for the 1986–87 marketing year of 11.5 million pounds.

In accordance with section 313(g) of the Act, the 1986–87 national marketing quota, divided by the 1981–85, 5-year national average yield of 1,865 pounds per acre, results in a national acreage allotment of 6,166.22 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 0.75 is determined by dividing the national acreage allotment, less a national reserve of 31 acres, by the total of the 1986 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

Virginia Sun-Cured Tobacco

The yearly average quantity of Virginia sun-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1985–86 marketing year was approximately 600 thousand pounds. The average annual quantity produced in the United States and exported during the same period was approximately 200 thousand pounds (farm-sales weight basis). Both domestic use and exports have shown a downward trend. Accordingly, a quantity of 430 thousand pounds has been determined to be a normal year's domestic consumption and a quantity of 120 thousand pounds has been determined to be a normal year's exports. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 1,450 thousand pounds.

Manufacturers and dealers reported stocks of Virginia sun-cured tobacco held on October 1, 1985, of 1,400 thousand pounds. The 1985 Virginia sun-cured tobacco crop is estimated to be 200 thousand pounds. Therefore, the total supply of Virginia sun-cured tobacco for the 1985–86 marketing year is 1,600 thousand pounds. During the 1985–86 marketing year, it is estimated that disappearance will total approximately 500 thousand pounds. By deducting this disappearance from the total supply, a carryover of 1,100 thousands pounds at the beginning of the 1986–87 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1986 is 350 thousands pounds. This represents the quantity of Virignia sun-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. During the last 5 years, only approximately 35 percent of the announced national marketing quota has been produced. Accordingly, it has been determined that a national marketing quota of 1,013 thousands pounds is necessary to make available production of 350 thousands pounds. Increasing the quota by 20 percent in accordance with section 312(b) of the Act to 1,213 thousand pounds is necessary to avoid undue restriction of marketings. This results in a national marketing quota for the 1986–87 marketing year of 1,216 thousand pounds.

In accordance with section 313(g) of the Act, the 1986–87 national marketing quota divided by the 1981–85 5-year national average yield of 1,181 pounds per acre, results in a 1986 national acreage allotment of 1,029.64 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 5.75 acres, by the total of the 1986 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Cigar-Binder (Types 51–52) Tobacco

Marketing quotas were disapproved by producers with respect to the 1984, 1985, and 1986 marketing years.

The yearly average quantity of cigar-binder (types 51–52) tobacco produced in the United States, which is estimated to have been consumed in the United States during the 10 years preceding the 1985–86 marketing year, was approximately 2.5 million pounds. The average annual quantity of cigar-binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1985–86 marketing year was .2 million pounds (farm-sales weight basis). Domestic use has declined recently while exports have increased. Accordingly, a quantity of 2.2 million pounds has been determined to be a normal year's domestic consumption and a quantity of .3 million pounds has been determined to be a normal year's exports. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 6.8 million pounds.

Manufacturers and dealers reported stocks of cigar-binder tobacco held on October 1, 1985 of 6.0 million pounds. The 1985 cigar-binder tobacco crop is estimated to be 2.1 million pounds. Therefore, the total supply of cigar-binder tobacco for the 1985–86 marketing year is 8.1 million pounds. During the 1985–86 marketing year, it is estimated that disappearance will total about 3.0 million pounds. By deducting the estimated disappearance during the 1985–86 marketing year from the total supply, a carryover of 5.1 million pounds at the beginning of the 1986–87 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1986 is 1.7 million pounds. This represents the quantity of cigar-binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. During the last 5 years, only approximately 57 percent of the national quota has been produced. Accordingly, it has been determined that a national marketing quota of 2.97 million pounds is necessary to make available production of 1.7 million pounds. In accordance with section 312(b) of the Act, an increase in the computed quota by 20 percent to 3.56 million pounds is necessary in order to avoid undue restriction of marketings. This results in a national marketing quota for the, 1986–87 marketing year of $3.56 million pounds.

In accordance with section 313(g) of the Act, the 1986–87 national marketing quota of 3.56 million pounds divided by the 1981–85 5-year national average yield of 1,815 pounds per acre results in a 1986 national acreage allotment of 1,961.43 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 16.0 acres, by the total of the 1986 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national allotment, less the national reserve, to old farms.

Cigar-Filler and Binder (Types 42–44 & 53–55) Tobacco

The yearly average quantity of cigar-filler and binder (types 42–44 & 53–55) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1985–86 marketing year was approximately 22.3 million pounds. The average annual quantity of cigar-filler and binder (types 42–44 & 53–55) tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1985–86 marketing year was very small. Domestic use is erratic and exports are small.

Accordingly, a normal year's domestic consumption has been established at 26.0 million pounds while a normal year's exports has been established at 0.06 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 75.2 million pounds.

Manufacturers and dealers report stocks of cigar-filler and binder (types 42–44 & 53–55) tobacco held on October 1, 1985 of 63.6 million pounds. The 1985 cigar-filler and binder crop is estimated to be 17.9 million pounds.

Therefore, the total supply of cigar-filler and binder (types 42–44 & 52–55) tobacco for the 1985–86 marketing year is 81.5 million pounds. During the 1985–86 marketing year, it is estimated that disappearance will total about 18.0 million pounds. By deducting this disappearance from the total supply, a carryover of 63.5 million pounds at the beginning of the 1986–87 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1986 is 11.7 million pounds. This repreents the quantity of cigar-filler and binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. During the past 5 years, approximately 79 percent of the announced national marketing quota has been produced. Accordingly, it has been determined that a 1986–87 national marketing quota of 14.8 million pounds is necessary to make available production of 11.7 million pounds. Increasing the quota by 20 percent in accordance with section 312(b) of the Act to 17.8 million pounds is necessary to avoid undue restriction of marketings. This results in a national marketing quota for the 1986–87 marketing year of 17.8 million pounds.

In accordance with section 313(g) of the Act, the 1986–87 national marketing quota of 17.8 million pounds divided by the 1981–85 5-year national average yield of 1,938 pounds per acre results in a 1986–87 national acreage allotment of 9,184.73 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of .80 is determined by dividing the national acreage allotment, less a national reserve of 9.0 acres, by the total of the

1986 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

Accordingly, the following determinations announced by the Secretary of Agriculture on January 31, 1986 are affirmed:

Proclamations of National Marketing Quotas for Sun-Cured (Type 37) and Cigar Binder (Types 51–52) Tobacco

1. Sun-cured (type 37)

Since the 1985–86 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for sun-cured (type 37) tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1986, October 1, 1987, and October 1, 1988 is hereby proclaimed.

2. Cigar-binder (Types 51–52)

Since cigar-binder tobacco producers voting in a referendum in February 1985, disapproved quotas for the 3 marketing years beginning October 1, 1985, and since such disapproval was not the third consecutive disapproval of quotas for cigar-binder tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1986, October 1, 1987, and October 1, 1988 is hereby proclaimed.

Determinations for the 1986–87 Marketing Years of Fire-Cured (Type 21), Fire-Cured (Types 22–23), Dark Air-Cured Virginia Sun-Cured, Cigar-Binder (Types 51–52), and Cigar-Filler and Binder (Types 42–44 and 53–55) Tobacco

With respect to fire-cured (types 21) tobacco for the marketing year beginning October 1, 1986:

(a) *Reserve supply level.* The reserve supply level for fire-cured (type 21) tobacco is 11.6 million pounds.

(b) *Total supply.* The total supply of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1985, is 14.4 million pounds.

(c) *Carryover.* The estimated carryover of fire-cured (type 21) tobacco for marketing year beginning October 1, 1986, is 7.9 million pounds.

(d) *National marketing quota.* The amount of fire-cured (type 21) tobacco which will make available during the marketing year beginning October 1, 1986 a supply equal to the reserve supply level of such tobacco is 3.7 million pounds. Because producers have been producing slightly less than half of the announced national marketing quota during the past 5 marketing years, a national marketing quota of 7.5 pounds is hereby announced. It is further determined, however, that a national marketing quota in the amount of 7.5 million pounds result in undue restriction of marketings during the 1986–87 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is increased by 20 percent. Therefore, the amount of the national marketing quota for fire-cured (type 21) tobacco for the marketing year beginning October 1, 1986 is 9.0 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 7,620.66 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments is 1.0.

(g) *National reserve.* The national acreage reserve is 67 acres of which 10 acres are made available for 1986 new farms and 57 acres are made available for making corrections and adjusting inequities in old farm allotments.

With respect to fire-cured (types 22–23) tobacco for the marketing year beginning October 1, 1986:

(a) *Reserve supply level.* The reserve supply level for fire-cured (types 22–23) tobacco is 118.0 million pounds.

(b) *Total supply.* The total supply of fire-cured (types 22–23) tobacco for marketing year beginning October 1, 1985, is 128.2 million pounds.

(c) *Carryover.* The estimated carryover of fire-cured (types 22–23) tobacco for the marketing year beginning October 1, 1986, is 90.2 million pounds.

(d) *National marketing quota.* The amount of fire-cured (types 22–23) tobacco which will make available during the marketing year beginning October 1, 1986, a supply equal to the reserve supply level of such tobacco is 27.8 million pounds. Because producers have been producing over 90 percent of the announced national marketing quota during the past 5 marketing years, it has been determined that a national marketing quota for the 1986–87 marketing year of 30.6 million pounds is necessary to make available production of 27.8 million pounds. Accordingly, a 1986–87 national marketing quota of 30.6 million pounds is hereby announced. It has been determined, however, that the 1986–87 national marketing quota in the amount of 30.6 million pounds would result in undue restrictions of marketings during the 1986–87 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is increased by 20 percent. Therefore, the amount of the 1986–87 national marketing qota for fire-cured (types 22–23) tobacco for the marketing year beginning October 1, 1986, is 36.7 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 19,678.28 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1986–87 marketing year is .875.

(g) *National reserve.* The national acreage reserve is 159 acres of which 19.0 acres are made available for 1986 new farms, and 140 acres are made available for making corrections and adjusting inequities in old farm allotments.

With respect to dark air-cured tobacco for the marketing year beginning October 1, 1986:

(a) *Reserve supply level.* The reserve supply level for dark air-cured tobacco is 57.6 million pounds.

(b) *Total supply.* The total supply of dark air-cured tobacco for the marketing year beginning October 1, 1985, is 63.5 million pounds.

(c) *Carryover.* The estimated carryover of dark air-cured tobacco for the marketing year beginning October 1, 1986, is 49.5 million pounds.

(d) *National marketing quota.* The amount of dark air-cured tobacco which will make available during the marketing year beginning October 1, 1986, a supply equal to the reserve supply level of such tobacco is 8.1 million pounds. Because producers have been producing about 85 percent of the announced national marketing quota during the past 5 marketing years, it has been determined that a 1986–87 national marketing quota of 9.6 million pounds is necessary to make available production of 8.1 million pounds. Accordingly, a 1986–87 national marketing quota of 9.6 million pounds is announced. It has been determined, however, that a national marketing quota in the amount of 9.6 million pounds would result in undue restriction of marketings during the 1986–87 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the 1986–87 national marketing quota for dark air-cured (types 35 & 36) tobacco for the marketing year beginning October 1, 1986, is 11.5 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 6,166.22 acres.

(f) *National acreage factor.* The national acreage factor for use in

determining farm acreage allotments for the 1986–87 marketing year is .75.

(g) *National reserve.* The national acreage reserve is 31.0 acres, of which 6.0 acres are made available for 1986 new farms and 25.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

With respect to Virginia sun-cured tobacco for the marketing year beginning October 1, 1986:

(a) *Reserve supply level.* The reserve supply level for Virginia sun-cured tobacco is 1,450 thousand pounds.

(b) *Total supply.* The total supply of Virginia sun-cured tobacco for the marketing year October 1, 1985 is 1,600 thousand pounds.

(c) *Carryover.* The estimaed carryover of Virginia sun-cured tobacco for the marketing year beginning October 1, 1986, is 1,100 thousand pounds.

(d) *National marketing quota.* The amount of Virginia sun-cured tobacco which will make available during the marketing year beginning October 1, 1986, a supply equal to the reserve supply level of such tobacco is 350 thousand pounds. Because producers have been producing about 35 percent of the announced national marketing quota over the past 5 years, it has been determined that a national marketing quota of 1,013 thousand pounds is necessry to make available production of 350 thousand pounds. Accordingly, a national marketing quota of 1,013 thousand pounds is hereby announced. It has been determined, however, that a national marketing quota in the amount of 1,013 thousand pounds would result in undue restriction of marketings during the 1986–87 marketing year. Accordingly, such amount is increased by 20 percent. Therefore, the amount of the national marketing quota for Virginia sun-cured (type 37) tobacco for the marketing year beginning October 1, 1986, is 1,216 thousand pounds.

(e) *National acreage allotment.* The national acreage allotment is 1,029.64 acres.

(f) *National acrege factor.* The national acreage factor for use in determining farm acrege allotments for the 1986–87 marketing year is 1.0.

(g) *National reserve.* The national acreage reserve is 5.75 acres, of which 2.75 acres are made available for 1986 new farms and 3.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

With respect to cigar-binder (types 51–52) tobacco for the marketing year beginning October 1, 1986:

(a) *Reserve supply level.* The reserve supply level for cigar-binder (types 51–52) tobacco is 6.8 million pounds.

(b) *Total supply.* The total supply of cigar-binder (types 51–52) tobacco for the marketing year beginning October 1, 1985 is 8.1 million pounds.

(c) *Carryover.* The estimated carryover of cigar-binder (types 51–52) tobacco for the marketing year beginning October 1, 1986 is 5.1 million pounds.

(d) National marketing quota . The amount of cigar-binder (types 51–52) tobacco which will make available during the marketing year beginning October 1, 1986 a supply equal to the reserve supply level of such tobacco is 1.7 million pounds. Because producers have been producing about 57 percent of the announced national marketing quota over the past 5 years, it has been determined that a national marketing quota of 2.97 million pounds is necessary to make available production of 1.7 million pounds. Accordingly, a national marketing quota of 2.97 million pounds is hereby announced. It has been determined, however, that national marketing quota in the amount of 2.97 million pounds would result in undue restriction of marketings during the 1986–87 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is increased by 20 percent. Therefore, the amount of the national marketing quota for cigar-binder (types 51–52) tobacco for the marketing year beginning October 1, 1986, is 3.56 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 1,961.43 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1986–87 marketing year is 1.0.

(g) *National reserve.* The national acreage reserve is 16.0 acres of which 6.0 acres are made available for 1986 new farms and 10.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

With respect to cigar-filler and binder (types 42–44 & 53–55) tobacco for the marketing year beginning October 1, 1986:

(a) *Reserve supply level.* The reserve supply level for cigar-filler and binder (types 42–44 & 53–55) tobacco is 75.2 million pounds.

(b) *Total supply.* The total supply of cigar-filler and binder (types 42–44 & 53–55) tobacco for the marketing year beginning October 1, 1985 is 81.5 million pounds.

(c) *Carryover.* The estimated carryover of cigar-filler and binder (types 42–44 & 53–55) tobacco for the marketing year beginning October 1, 1986 is 63.5 million pounds.

(d) *National marketing quota.* The amount of cigar-filler and binder (types 42–44, 53–55 tobacco which will make available during the marketing year beginning October 1, 1986, a supply equal to the reserve supply level of such tobacco is 11.7 million pounds. Because producers have been producing about 79 percent of the announced national marketing quota over the past 5 years, it has been determined that a national marketing quota of 14.8 million pounds is necessary to make available production of 11.7 million pounds. Accordingly, a national marketing quota of 14.8 million pounds is hereby announced. It has been determined, however that a national maketing quota in the amount of 14.8 million pounds would result in undue restriction of marketings during the 1986–87 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is increased by 20 percent. Therefore, the amount of the national marekting quota for cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1986, is 17.8 million pounds.

(3) *National acreage allotment.* The national acreage allotment is 9,184.73 acres.

(f) *National Acreage factor.* The national acrage factor for use in determining farm acreage allotments for the 1986–87 marketing year is .80.

(g) *National reserve.* The national acreage reserve is 9 acres, of which 5.0 acres are made available for 1986 new farms, and 4.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

Authority. Sec. 301, 312, 313, 375, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 66, as amended (7 U.S.C.1301, 1312, 1313, 1375).

Signed at Washington, DC, on June 3, 1986.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86-13011 Filed 6-9-86; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Environmental Impact Statement for Atanta Gold Project Gold-Silver Open Pit Mine Boise National Forest, ID

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for the development and operation of a gold-silver open-pit mine, located on patented land,

accompanied by a cyanide heap leach facility and a precious metal recovery plant on U.S. Government land administered by USDA Forest Service near Atlanta, Idaho.

The Boise National Forest Supervisor has received a Description of Plan of Operations from the Atlanta Gold Corporation, Vancouver, BC, Canada. The plan of operation proposes a mining operation that would remove ore from two open pits. Current ore reserves and pit design indicate production of about 7 million tons of ore and 16 million tons of waste over a mine life of 8 to 10 years. The mine would operate seasonally from April to November. Approximately 100 people would be employed to operate the mine; peak employment during construction could approach 150.

Environmental studies and additional exploration drilling will be conducted during 1986. At attempt will be made to have the analysis complete and a draft environmental impact statement available for public review by November of 1986.

The final environmental impact statement is scheduled to be completed by April 1987.

Federal, State, and local agencies, organizations, and individuals who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of those issues to be addressed in the environmental impact statement.

2. Elimination of insignificant issues or those which have been covered by a previous environmental review

3. Determination of potential cooperating agencies and assignment of responsibilities.

Public meetings to provide opportunity for comments will be held at the Boise National Forest Supervisor's Office, 1750 Front Street, Boise, Idaho at 7 p.m., July 7, 1986, and at the Forest Service administrative site in Atlanta, Idaho, at 7 p.m., July 8, 1986.

John J. Lavin, Forest Supervisor of the Boise National Forest in Boise, Idaho, is the responsible official. Written comments and suggestions concerning the analysis should be sent to John J. Lavin, Forest Supervisor, Boise National Forest, 1750 Front Street, Boise, Idaho 83702 by July 14, 1986.

Questions about the proposed action and environmental impact statement should be directed to Brent H. McBeth, District Ranger, Boise Ranger District, 5493 Warm Springs Avenue, Boise, Idaho 83712, phone 208-334-1572.

Dated: June 3, 1986.

Stephen D. Butler,

Acting Deputy Forest Supervisor.

[FR Doc. 86-13007 Filed 6-9-86; 8:45 am]

BILLING CODE 3410-11-M

CIVIL RIGHTS COMMISSION

Colorado Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 4:00 p.m. on June 30, 1986, at the Executive Tower Building, Tower Room, 1405 Curtis Street, Denver, Colorado. The purpose of the meeting is to review a draft beifing memorandum on the Hispanic dropout rate in Colorado and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Maxine Kurtz or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844-2111, (TDD 303/844-3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 3, 1986.

Ann E. Goode,

Program Specialist For Regional Programs.

[FR Doc. 86-12990 FIled 6-9-86; 8:45 am]

BILLING CODE 6335-01-M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 8:00 a.m. and adjourn at 5:00 p.m. on June 30, 1986, at the Hilton Hotel & Towers, Room Wiliford A, 720 S. Michigan Avenue, Chicago, Illinois. The purpose of the meeting is to convene a community forum on the civil rights of hearing-impaired people.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Hugh Schwartzberg, or Clark Roberts, Director of the Midwestern Regional Office at (312)353-7371, (TDD 312/886-2188). The services of a sign language interpreter will be provided for hearing impaired persons who will attend the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 2, 1986.

Yvonne E. Schumacher,

Program Specialist for Regional Programs.

[FR Doc. 86-12991 Filed 6-9-86; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m. on June 19, 1986, at the Black Culture Center, 109 North Jordan Avenue, Bloomington, Indiana. The purpose of the meeting is to review a briefing memorandum on fair housing and to plan future Committee activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, James Nuechterleln or Clark Roberts, Director of the Midwestern Regional Office at (312) 353-7371, (TDD 312/886-2188). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regualtions of the Commission.

Dated at Washington, DC, June 2, 1986.

Yvonne E. Schumacher,

Program Specialist for Regional Programs.

[FR Doc. 86-12992 Filed 6-9-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration

Title: Logbook Family of Forms—Charterboat

Form number: Agency—N/A; OMB—0648-0016
Type of request: Revision of a currently approved collection
Burden: 4,502 respondents; 7,516 reporting hours
Needs and uses: Catch data from charterboats in the Southeast will be used for stock assessment and fishery management of coastal pelagic species.
Frequency: Weekly
Respondent's obligation: Mandatory
OMB Desk officer: Sheri Fox, 395-3785

Agency: National Oceanic and Atmospheric Administration
Title: Dealer Purchases and Trip Interviews—Amendment 6
Form number: Agency—N/A; OMB—0648-0013
Type of request: Revision of a currently approved collection
Burden: 5,183 respondents; 8,078 reporting hours
Needs and Uses: Shrimp fishermen off the Texas coast will be asked to provide catch data for a transborder migration study. The information will be used for the management of the fishery and for negotiations with Mexico on the shrimp fishery.
Affected public: Businesses or other for-profit institutions; small business of organizations
Frequency: On occasion
Respondent's obligation: Voluntary
OMB Desk officer: Sheri Fox, 395-3785

Agency: Patent and Trademark Office
Title: Practice Before the Patent and Trademark Office (PTO)
Form number: Agency—N/A; OMB—0651-0017
Type of request: Extension of the expiration date
Burden: 12 respondents; 1,728 reporting/recordkeeping hours
Needs and Uses: PTO regulations prescribe a code of conduct for agents, attorneys, or other persons representing applicants or other parties before the PTO. Information required is used to investigate and, where appropriate, prosecute violations of the PTO Code of Professional Responsibility.
Affected public: Federal agencies or employees; individuals or households.
Frequency: Recordkeeping/on occasion
Respondent's obligation: Required to obtain or retain a benefit
OMB Desk officer: Sheri Fox, 395-3785

Agency: International Trade Administration
Title: Gas Turbine Engine Subcontractor Industry
Form number: Agency—N/A; OMB—N/A
Type of request: New collection/expedited request
Burden: 275 respondents; 1,843 reporting hours
Needs and Uses: Information will be collected from firms in the defense Gas Turbine Engine Subcontractor base and used for surge/mobilization and related economic analysis. Defense production capability problems will be identified and corrective options recommended.
Affected public: Business or other for-profit institutions
Frequency: One time only
Respondent's obligation: Mandatory
OMB Desk officer: Sheri Fox, 395-3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: June 5, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86-13062 Filed 6-9-86; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Opportunity To Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.53a or 355.10 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than June 30, 1986, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in June, for the following periods:

	Period
Antidumping Duty Proceeding	
Fireplace Mesh Panels from Taiwan	06/01/85-05/31/86
Stainless Steel Plate from Sweden	06/01/85-05/31/86
Fishnetting from Japan	06/01/85-05/31/86
Bicycle Tires & Tubes from Taiwan	06/01/85-05/31/86
Carbon Steel Plate from Taiwan	06/01/85-05/31/86
Rayon Staple Fiber from Italy	06/01/85-05/31/86
Sugar from Belgium	06/01/85-05/31/86
Sugar from France	06/01/85-05/31/86
Sugar from the Federal Republic of Germany	06/01/85-05/31/86
Lg. Power Transformers from France	06/01/85-05/31/86
Lg. Power Transformers from Italy	06/01/85-05/31/86
Lg. Power Transformers from Japan	06/01/85-05/31/86
Raspberries from Canada	12/18/84-05/31/86
Strontium Nitrate from Italy	06/01/85-05/31/86
Barium Carbonate from the Federal Republic of Germany	06/01/85-05/31/86
Elemental Sulphur from Mexico	06/01/85-05/31/86
Polyvinyl Chloride Sheet and Film from Taiwan	06/01/85-05/31/86
Countervailing Duty Proceeding	
Nitrocellulose from France	01/01/85-12/31/85
Carbon Black from Mexico	01/01/85-12/31/86
Stainless Steel Plate from the United Kingdom	03/01/85-03/31/86

A request must conform to the Department's interim final rule published in the **Federal Register** (50 FR 32556) on August 13, 1985. Seven copies of the request should be submitted to the Deputy Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by June 30, 1986.

If the Department does not receive by June 30, 1986 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 4, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-13065 Filed 6-9-86; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with §§ 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 84-234R. Applicant: University of South Carolina, Columbia, SC 29208. Instrument: Isotope Ratio Mass Spectrometer, Model SIRA 24. Manufacturer: VG Isogas, United Kingdom. Original notice of this resubmitted application was published in the **Federal Register** of August 2, 1984.

Docket No. 85-252R. Applicant: Kansas State University, Manhattan, KS 66506. Instrument: Equine Treadmill for Horses, Model 4785. Manufacturer: RTC Systems, KB, Sweden. Original notice of this resubmitted application was published in the **Federal Register** of September 5, 1985.

Docket No. 86-204. Applicant: Yale University School of Medicine, Department of Molecular Biophysics & Biochemistry, P.O. Box 6666, New Haven, CT 06511. Instrument: NMR Spectrometer/Imager, Model Biospec 760/2.3. Manufacturer: Oxford Research Systems, United Kingdom. Intended Use: The instrument is intended to be used to obtain 13C, 31P and 1H nuclear magnetic resonance signals from low molecular weight metabolites present in various tissues of the human body and the bodies of large animals. Normal and impaired metabolism will be studied in humans and in large animals by analyzing these signals. Application received by Commissioner of Customs: May 5, 1986.

Docket No. 86-207. Applicant: University of California, Santa Barbara, Purchasing Department, Santa Barbara, CA 93106. Instrument: Accessories and Attachment for Surface Forces Apparatus. Manufacturer: Anutech Pty Ltd., Australia. Intended use: The instruments are accessories for surface forces apparatus which will be used for research on surface and interfacial phenomena with emphasis on intermolecular and surface forces, including self-assembly of aggregations of surfactant molecules (micelles) and lipids and proteins (biological membranes). Of particular interest is work on forces between surfaces spaced a few molecular distances apart and development of a modern theory on colloids. Application Received by Commissioner of Customs: May 6, 1986.

Docket No. 86-208. Applicant: University of Georgia, Complex Carbohydrate Research Center, Richard B. Russell Research Center, P.O. Box 5677, Athens, GA 30613. Instrument: Mass Spectrometer, Model MMZAB/SE. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: The instrument is used for research in the following areas:

1. Determine the molecular weights and size heterogeneity of biologically important complex carbohydrates.

2. Extend the use of existing carbohydrate derivatives and develop new derivatives designed to enhance the ability of fast atom bombardment-mass spectrometry to determine molecular weights and the sequence of glycosyl residues in complex carbohydrates.

3. Develop methods for the rapid monitoring of reactions used to fragment, modify and derivatize complex carbohydrates.

4. Develop methods for the rapid monitoring of enzymic cleavage reactions.

5. Analysis of isotope incorporation experiments.

6. Assist in developing new methods for synthesizing complex carbohydrates.

7. Structural analysis of complex carbohydrates of greater size and complexity than we have hitherto been able to characterize.

Application Received by Commissioner of Customs: May 12, 1986.

Docket No. 86-209. Applicant: Louisiana State University, Laboratory for Wetland Soils and Sediments, Center for Wetland Resources, Baton Rouge, LA 70803-7511. Instrument: Mass Spectrometer, Model Delta E with Accessories. Manufacturer: Finnigan MAT, West Germany. Intended use: The instrument is intended to be used to investigate the natural variations of nitrogen carbon, and sulfur isotopes of plant, soil and water environments of flooded soild. Highly labeled compounds (^{15}N, ^{13}C, ^{34}S) and cycling, transformations and uptake efficiency of nitrogen, carbon and sulfur will also be investigated. Both enriched and natural abundance isotopic ratios will be measured and reported as per mil (°/00) deviations from standards or atom (%) excess depending upon the degree of enrichment of the isotope ratio sample. Research projects to be conducted will include the following:

(1) Nitrogen and Carbon Cycling in Major Wetland Habitats of Louisiana's Barataria Basin.

(2) Capacity to Handle Increased Nutrient Loads.

(3) Cooperative U.S.-India Study of Nitrogen Transformation in Flooded Rice Soils.

(4) Investigation of Water Quality of Coastal Areas of Louisiana.

In addition, the instrument will be used for educational purposes in the courses: Marine Sciences 7132: Coastal Physical/Chemical Systems—Analytical Methods and Marine Sciences 7165: Chemistry and Microbiology of Flooded Soils and Sediments. Application received by Commissioner of Customs: May 12, 1986.

Docket No. 86-210. Applicant: University of Alaska, Fairbanks, AK 99701. Instrument: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use: The instrument is intended to be used to investigate the relationships between biological organisms and their environments, with emphasis on the regulatory mechanisms of physiological processes at the ultrastructural and biochemical levels. Research projects will include: (1) Pathogenesis of snow mold on winter wheat, (2) root development at low temperatures, (3) rabies virus shedding study, (4) study of olfactory mucosa and its connections with the brain (olfactory bulb) during the life cycle of salmon, (5) pathogenicity of brucellosis infected fox and reindeer, (6) pathogenicity of fish virus diseases, (7) ultrastructure of brown adipose tissues in wild animals and winter survival, (8) microbial ecology and physiology, and (9) ultrastructures of marine microflora. In addition, the instrument will be used for educational purposes in a number of upper-division and graduate level courses such as Introduction to plant pathology and cell biology. Application Received by Commissioner of Customs: May 12, 1986.

Docket No. 86-211. Applicant: University of Arizona, Department of Chemistry, Tucson, AZ 85721. Instrument: Monochromator. Manufacturer: SOPRA, France. Intended use: The instrument is intended to be used for (1) high resolution absorption measurements of transitory species such as Van der Waals complexes to obtain information on their structure and lifetimes and (2) real time observations on species such as silicon containing

radicals that are produced in relatively hostile environments (e.g., plasmas) that render conventional absorption techniques inapplicable. The phenomena to be studied include the structure in high resolution absorption spectra, product formation in supersonic jets, reaction mechanisms and kinetics in photodissociation, pyrolysis and plasma initiated processes (such as in silicon chemical vapor deposition). The instrument will also be used for educational purposes in graduate and undergraduate level courses in the Departments of Chemistry and Optical Science Center. Application received by Commissioner of Customs: May 12, 1986.

Docket No. 86-212. Applicant: University Medical Center Corporation, 1501 N. Campbell Avenue, Tucson, AZ 85724. Instrument: Lithotripter. Manufacturer: Dornier Medizintechnik GmbH, West Germany. Intended use: The instrument is intended to be used for the study of kidney and surrounding muscle tissue. Investigations will be conducted for expansion of the knowledge of shockwave technology, particularly the study of stones or calculi in different levels of the ureter to determine whether ultrasound can be used to treat such stones without damaging surrounding or peripheral structures. Investigations will also be performed to determine whether shockwave technology may be expanded to other applications. The instrument will also be used for educational purposes in lithotripsy experience courses in which students will be taught shockwave treatment application. Application received by Commissioner of Customs: May 12, 1986.

Docket No. 86-213. Applicant: Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: Electron Spectroscopy System, Model LHS-12 with Accessories. Manufacturer: Leybold-Heraeus Vacuum Products, Inc., West Germany. Intended use: The instrument is intended to be used for studies of thin films and multilayers of high Z-low Z materials, such as tungsten-carbon. The properties to be studied are the atomic and electronic structures as a function of depth from the surface of the samples. The experiments to be conducted include electron spectroscopic depth profiling. An ion gun will sputter material from the surface to expose underlayers, while an electron gun or synchrotron X-ray source will provide the necessary excitations to produce Auger and photoelectrons. These secondary electrons will be characterized via energy analysis, and the resultant signals will be monitored as a function of (a) method of film preparation and composition, (b) temperature, (c) X-ray dosage level, and (d) sputter time. The optical reflectivity will be monitored concomitantly to follow its evolution. Application received by Commissioner of Customs: May 12, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-13064 Filed 6-9-86; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research 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 Naval Research Advisory Committee Panel on Rapid Acquisition of Rapidly Advancing Technology will meet on June 26, 1986, at Crystal Plaza 5, Room 318, 2211 Jefferson Davis Highway, Arlington, Virginia. The first Session of the meeting will commence at 9:00 a.m. and terminate at 1:15 p.m. on June 26, 1986. The second session will commence at 1:15 p.m. and terminate at 2:30 p.m. on June 26, 1986. The third session will commence at 2:30 p.m. and terminate at 5:30 p.m. on June 26, 1986. All sessions of the meeting will be held in room 318, Crylstal Plaza 5. The second session from 1:15 to 2:30 p.m. on June 26, 1986, will be closed to the Public. The remaining two sessions will be open to the public.

The purpose of the meeting is to assess the acquisition cycle and recommend procedures for specific, rapidly advancing, high technology systems which will allow the Navy to take advantage of the leading edge of high technology. The open sessions will generally cover various individual perceptions for improvement of the research and development process. The remaining session of the meeting will consist of 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 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 be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this matter contact: Commander T.C. Fritz, U.S. Navy, Office of the Chief of Naval Research (Code OONR), 800 North Quincy Street, Arlington, VA 22217-5000, Telephone number (202) 696-4870.

Dated: May 29, 1986.

Harold L. Stoller, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liaison Officer.

[FR Doc. 86-13039 Filed 6-9-86; 8:45 am]

BILLING CODE 3810-AE-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1594]

Petitions for Reconsideration and Clarification and Applications for Review of Actions in Rulemaking Proceedings

June 2, 1986.

Petitions for reconsideration and clarification and applications for review have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, D.C., or may be purchased from the Commission's copy contractor, International Transcription Service (202-857-3800). Oppositions to these petitions and applications must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Jacksonville, Florida) (MM Docket No. 83-415, RM-4301);

Number of petitions received: 1

Subject: Frequency Coordination in the Private Land Mobile Radio Services. (PR Docket No. 83-737);

Number of petitions received: 7

Subject: Amendments to the Television Table of Assignments to Change Non-Commercial Educational Reservations. (MM Docket No. 85-41);

Number of petitions received: 3

Subject: Investigation of Special Access Tariffs of Local Exchange Carriers (CC Docket No. 85-166, Phase I);

Number of petitions received: 2

(CC Docket No. 85-166, Phase II, Part I);

Number of petitions and applications

received: 2

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (King City, California) (MM Docket No. 85-262);

Number of petitions received: 1

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-13005 Filed 6-9-86; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 86-211 et al.]

Microband Corp. of America et al.; Memorandum Opinion and Order

Adopted May 30, 1986

Released June 3, 1986.

By the Common Carrier Bureau.

In re Applications of Microband Corporation of America, CC Docket No. 86-211, File No. 50000-CM-P-86; and Broadcast Data Corporation, File No. 50045-CM-P-86; and Contemporary Communications Corporation File No. 50047-CM-P-86; for Construction Permits in the Multipoint Distribution Service for a new station of Channel 2 at Syracuse, New York.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2 at Syracuse, New York. The applications are therefore mutually exclusive and require comparative consideration. There are not petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further order, that Microband Corporation of America, Broadcast Data Corporation, Contemporary Communications Corporation and the Chief of the Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. It it further order, that any authorization granted to Broadcast data Corp., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned as follows:

(a) Without prejudice to reexamination and reconsideration of the company's qualifications to hold an MDS license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of the proceeding.

7. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division Common Carrier Bureau.

[FR Doc. 86-13006 Filed 6-9-86; 8:45 am]

BILLING CODE 6712-01-M

[1] Consideration of these factors shall be in light of the Commission's discussion in Frank K. Spain, 77 FCC 2d 20 (1980).

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0090.

Title: Staffing Pattern.

Abstract: This form provides pertinent information on each personnel position funded under the Emergency Management Assistance (EMA) 50-50 matching fund grant program.

Type of respondents: State or local governments.

Number of respondents: 2,750.

Burden hours: 1,375.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street, SW, Washington, DC 20472.

Comments should be directed to Dave Reed, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3221, New Executive Office Building, Washington, DC 20503.

Dated: June 3, 1986.

Wesley C. Moore,

Acting Director, Office of Administrative Support.

[FR Doc. 86-12985 Filed 6-9-86; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-764-DR]

Amendment to Notice of a Major Disaster Declaration; South Dakota

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota (FEMA-764-DR), dated May 3, 1986, and related determinations.

DATED: May 29, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice: The notice of a major disaster for the State of South Dakota, dated May 3, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 3, 1986:

Lyman, Potter, Roberts, Spink, Tripp, and Walworth Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.) (Billing Code 6718-02)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-12986 Filed 6-9-86; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-765-DR]

Major Disaster and Related Determinations; Trust Territory of the Pacific Islands

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Trust Territory of the Pacific Islands (FEMA-765-DR), dated June 3, 1986, and related determinations.

DATED: June 3, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3616.

Notice: Notice is hereby given that, in a letter of June 3, 1986 the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the Trust Territory of the Pacific Islands from Typhoon Lola beginning on or about May 16, 1986, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the Trust Territory of the Pacific Islands.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. You also are authorized to provide necessary Public Assistance in the affected areas and are authorized to fund 100 percent of the eligible costs for such assistance.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the Trust Territory of the Pacific Islands to have been affected adversely by this declared major disaster and is designated eligible as follows:

The Island of Ponape for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance Billing Code 6718-02)

Julius W. Becton, Jr.,

Director.

[FR Doc. 86-12987 Filed 6-9-86; 8:45 am]

BILLING CODE 6718-01-M

Training and Fire Programs Directorate, Board of Visitors for the National Fire Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the National Fire Academy (NFA).

Date of meeting: July 7, 1986.

Place: Federal Emergency Management Agency, Federal Center Plaza, 500 C Street, SW., Room 413, Washington, DC 20472.

Time: 10:00 a.m.-4:00 p.m.

Proposed agenda: BOV Annual Report.

The meeting will be open to the public with approximately 10 seats available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, Training and Fire Programs Directorate, 16825 South Seton Avenue, Emmitsburg, Maryland 21727 (telephone number, 301-447-6771) on or before June 30, 1986.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Associate Director's Office, Training and Fire Programs Directorate, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, MD, 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: May 28, 1986.

James P. McNeill,

Associate Director, Training and Fire Programs.

[FR Doc. 86-12988 Filed 6-9-86; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010951.

Title: Port of Baltimore Terminal Agreement.

Parties:

Polish Ocean Lines, Inc. (POL)

Maryland Port Administration

Synopsis: The agreement and lease provides POL with 9.02 acres at Dundalk Marine Terminal for three years. POL will receive an annual tonnage discount based on the achievement of tonnage beyond a guaranteed level of cargo throughput at the terminal.

Dated: June 5, 1986.

By Order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-13048 Filed 6-9-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Ameritrust Corp.; Application to Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23 (a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise

noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair compeitition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 1, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *AmeriTrust Corporation*, Cleveland, Ohio; to engage *de novo* through its subsidiary, AmeriTrust Sourtheast National Association, Tampa, Florida, in acting as fiduciary and providing fiduciary services as permitted for trust companies in the state of Florida, including but not limited to, acting as trustee, executor, administrator, registrar of stocks and bonds, guardian of estate, custodian of property, investment portfolio planning and management in connection with fiduciary and agency accounts and employee benefits services pursuant to §225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-12981 Filed 6-9- 86;8:45 am]

BILLING CODE 6210-01-M

First Pennsylvania 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 July 3, 1986.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Pennsylvania Corporation*, Philadelphia, Pennsylvania; to acquire 100 percent of the voting shares of First Pennsylvania Bank (Del), in or near Wilmington, Delaware, a *de novo* bank.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to merge with First Crawfordsville Financial Corporation, Crawfordsville, Indiana, and thereby indirectly acquire The First National Bank and Trust Company of Crawfordsville, Indiana.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *WFNB Bankshares, Inc.*, Kingstree, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Williamsburg First National Bank, Kingstree, South Carolina.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American Fletcher Corporation*, Indianapolis, Indiana; to acquire at least 53 percent of the voting shares of Citizens Northern Company, Inc., Elkhart, Indiana, and thereby indirectly acquire Citizens Northern Bank of Elkhart, Elkhart, Indiana. Comments on this application must be received not later than June 30, 1986.

E. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *M & M Holding Company*, Marianna, Arkansas; to become a bank holding company by acquiring 85.7 percent of the voting shares of Farmers and Merchants Bank, Marianna, Arkansas.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Lake Granbury Financial Corporation*, Granbury, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Lake Granbury National Bank, Granbury, Texas.

Board of Governors of the Federal Reserve System, June 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-12982 Filed 6-9-86; 8:45 am]

BILLING CODE 6210-10-M

The Sanwa Bank Limited; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) 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. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be

accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposals.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 27, 1986.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Sanwa Bank Limited,* Osaka, Japan; to acquire through its subsidiary, Sanwa Buinsss Credit Corporation, Chicago, Illinois, substantially of the assets of Division LE of Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois, and thereby acquire the type of loans and extensions of credit that are permissible nonbanking activities pursuant to §§ 225.25(b)(1) of 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-12983 Filed 6-9-86 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Grants for Injury Control Research and Demonstration Projects and Injury Prevention Research Centers; Program Announcement and Notice of Availability of Funds for Fiscal Year 1986

The Centers for Disease Control (CDC) announces that applications are being accepted for grants to support: (1) Injury control research and demonstration projects, and (2) injury prevention research centers (IPRCs).

I. Availability of Funds

Funds in the amount of about $7.8 million are available to support injury control research and demonstrations projects and IPRCs. At least half of these funds must be awarded in the area of traffic and motor vehicle-related injury control.

CDC expects to make available approximately $5.8 million to support up to 25 specific injury control research and demonstration projects and approximately $2.0 million to support up to 5 IPRCs in fiscal year 1986.

Eligible applicants and requirements for these awards are described in sections V. and VI.

II. Authority

The legislative authorities for this program are: Pub. L. 99-190, Continuing Appropriations Act for Fiscal Year 1986, section 601 of the Economy Act as amended (31 U.S.C. 1535 and 1536), and section 301 of the Public Health Service Act (42 U.S.C. 241). Program regulations are set forth in Title 42 of the Code of Federal Regulations, Part 52. The funds for this program are being transferred to CDC for the National Highway Traffic Safety Administration under an Interagency Agreement.

III. Background and Definitions

A. Background

Injuries are the country's leading cause of years of potential life lost before age 65. They are the leading cause of death and disability in children and young adults. Older Americans also suffer unduly from the severe consequences of injury. However, opportunities to understand and prevent injuries and reduce their effects are available. To exploit these opportunities will require a broad approach to injury control, utilizing many disciplines that heretofore have not been an integral part of public health efforts.

Many of these opportunities are discussed in the National Research Council and Institute of Medicine report, *Injury in America* (National Academy Press—ISBN 0-309-03545-7). Copies of this report will be included in the Application Kits that are available from the CDC Business Information Contact listed later in this Program Announcement.

B. Definitions

1. *Injury* is defined as physical damage to an individual resulting from acute exposure to physical or chemical agents. The three major categories of injury are intentional, unintentional, and occupational. Intentional injuries result from interpersonal or self-inflicted violence, and include homicide, assaults, suicide and suicide attempts, child abuse, and rape. Unintentional or unintended injuries include those that result from motor vehicle collisions, falls, fires, poisonings, and drownings. Occupational injuries occur at the worksite and include unintentional trauma (for example, work-related motor-vehicle injuries, drownings, and electrocutions) and intentional injuries in the workplace.

2. *Specific injury control research and demonstration projects* are defined as that research designed to:

a. Yield results directly applicable to identifying interventions to prevent injury occurrence or minimize disability; or

b. Apply, and evaluate the effect of, known interventions on injury morbidity, mortality, disability, and costs; or

c. Elucidate the chain of causation—the etiology and mechanisms—of injuries. This research generates the fundamental knowledge which contributes to the development of future interventions.

3. *An IPRC* is defined as an organizational unit within an academic institution that works toward the development of an interdisciplinary, comprehensive approach to the injury problem involving physicians, epidemiologists, engineers, behavioral scientists, public health workers, and others, and is organized in such a manner that multiple aspects of the injury problem can be addressed by this unit (for example, research in epidemiology, prevention, biomechanics, treatment, and rehabilitation; information gathering and dissemination; and the ongoing provision of training opportunities to students, researchers, and public health agency personnel).

Note.—Grant funds will not be made available to support the provision of direct care services in the areas of acute care and rehabilitation. Studies can be supported which examine methods to integrate acute care and rehabilitation to identify potential reductions in injury effects and costs. In addition, studies will be supported which identify the effect of emergency medical service systems, including both transport and acute care, on injury outcome and costs. Other related opportunities are discussed in *Injury in America.*

IV. Goals

A. To support injury control research and demonstrations on priority issues as delineated in *Injury in America.*

B. To integrate aspects of the disciplines of engineering, public health, public safety, behavioral sciences, medicine, and others in order to prevent and control injuries more effectively.

C. To rigorously apply and evaluate current and new interventions, methods, and strategies that focus on the prevention and control of injuries.

D. To support IPRCs which will develop a comprehensive and integrated approach to injury control research and training.

E. To bring the knowledge and expertise of IPRCs to bear on the development of effective public health programs for injury control.

V. Eligible Applicants

A. Injury Control Research and Demonstration Projects

Eligible applicants include all non-profit and for profit organizations. Thus, State and local health departments and other State and local governmental agencies, universities, colleges, research institutions, and other public and private organizations, including small, minority and/or woman-owned businesses are eligible for these research and demonstration grants.

B. Injury Prevention Research Centers

Eligible applicants are academic institutions including, but not limited to, schools of medicine, osteopathy, public health, and engineering.

Note.—Eligible applicants may enter into contracts, including consortia (as set forth in the PHS Grants Policy Statement, dated Dec. 1, 1982, as amended) agreements as necessary to meet the requirements of the program and strengthen the overall application.

VI. Requirements for Financial Assistance

A. Essential Requirements for IPRCs

IPRCs are academic institutions that must have:

1. Core faculty and expertise initially in at least one of the five areas of injury control (surveillance and epidemiology, prevention and health promotion, biomechanics, acute care, and rehabilitation) and specific, time-framed plans to incorporate all five areas into the center.

2. Demonstrated involvement of other faculty in at least medicine, engineering, and public health, with a specific, time-framed plan to expand to include biostatistics, behavioral and social sciences, and health administration.

3. Established curricula and graduate training programs in areas relevant to injury control.

4. Ongoing injury-related projects or activities currently supported by other sources of funding.

B. Other Requirements Appropriate Both to IPRCs and Other Research Entities

1. A director who has specific authority and responsibility to carry out the project.

2. Demonstrated experience in successfully conducting, evaluating, and publishing injury-related research and/or designing, implementing, and evaluating injury control programs.

3. Effective and well-defined working relationships with outside agencies and other entities which will ensure implementation of the proposed activities.

4. Mechanisms for linking the injury control research findings with public health and other intervention efforts to facilitate rapid application of findings.

VII. Program Elements

A. Injury Control Research and Demonstration Projects

Application for injury control research projects should include:

1. The project's focus that justifies the research need and describes the scientific basis for the research, the expected outcome, and the relevance of the findings to reduced injury morbidity, mortality, disability, and economic losses. This focus should be based on findings in *Injury in America* and should seek creative approaches which will contribute to a national program for injury control.

2. Specific, measurable, and time-framed objectives.

3. A detailed plan describing the methods by which these objectives will be achieved, including their sequence. An evaluation plan is an essential component of the application.

4. A description of the project's principal investigator's role and responsibilities.

5. A description of all the project staff regardless of their funding source. It should include their title, qualifications, experience, percentage of time each will devote to the project, as well as that portion of their salary paid by the grant.

6. A description of those activities related to, but not supported by, the grant.

7. Description of the involvement of other entities that will relate to the proposed project, if applicable. It should include commitments of support and a clear statement of their role.

8. A detailed first year budget for the project with future annual projections, if relevant.

9. Plans to become self-sustaining.

B. Injury Prevention Research Centers

Applications for support of an IPRC grant should include the following information:

1. Proposed theme for the center's injury activities. The proposed IPRC activities should be clearly described in terms of need, scientific basis, emphasis, expected interactions, and anticipated outcomes, including the expected effect on injury morbidity and mortality.

In selection the theme, applicants should consider the findings in *Injury in America* and should address: (a) Leading causes of preventable injuries, premature deaths, disabilities, and medical expenditures and economic losses; (b) target populations at high risk for injury and injury consequences (for example, minorities, teenagers and young adults, the elderly, and the poor); (c) interventions feasible now or in the near future; and (d) major cross-cutting issues affecting injury control.

2. Specific, measurable, and time-framed objectives consistent with the proposed theme and activities.

3. A detailed plan that describes the methods to be used to achieve the center's objectives. This should include a description of multidisciplinary interactions, teaching activities, research stimulation, policy development, and technology transfer.

4. A detailed evaluation plan.

5. A description of the center director's role and authority as it relates to staffing the center, coordination of activities, and control over space, equipment, and other facilities.

6. A description of the core faculty and their roles in implmenting and evaluating the proposed programs. The applicant should clearly specify how disciplines will be integrated to achieve the center's objectives, and how it is planned to expand the scope of the center to incorporate those areas not currently included.

7. A list of staff, including the center director and core faculty, including titles, qualifications, areas of expertise, amount of time devoted to components of the proposed program, and whether paid by the grant or other sources.

8. A list of other current funded and/or pending grants and/or contracts that relate to the achievement of the program's goals and objectives. For each grant or contract include: source of funds, amount of funding (indicate whether current or pending), date of funding (initiation and termination), and relationship to the proposed program.

9. Documentation of the involved public health agencies or other entities to be involved in the proposed program, including letters that detail commitments of financial and other support and a clear statement of their role, if applicable.

10. Charts showing the proposed organizational structure of the center and its relationship to the broader institution of which it is a part, and, where applicable, to affiliate institutions or collaborating organizations.

11. A detailed first year budget for the center with future annual projections.

12. Plans to become self-sustaining.

Note.—Applicants requesting support for IPRCs may separately request support to conduct injury control research and demonstration projects.

VIII. Programmatic Interests

The focus of grants should reflect the broadly-based need to control injury morbidity, mortality, disability, and costs through initiatives described in *Injury in America*. One-half of the awards will have as their objective the reduction of traffic and motor vehicle injuries.

IX. Criteria for Review

Applications will be evaluated by a dual review process.

A. A *peer review* will be conducted on all applications and site visits may be made as part of this process. A final determination of their rank will be made following completion of site visits. Factors considered in the *peer review* will include:

1. The degree to which the applicant possesses the requirements described in section VI.
2. The overall match between the applicant's proposed theme and research objectives, and national program priorities as described in *Injury in America*.
3. The merit of the overall application relative to research or demonstrations proposed for an injury control research and demonstration project or an IPRC.
4. The adequacy of the methods for coordinating the overall program or project and its components.
5. The extent to which the evaluation plan will allow for the measurement of progress toward the achievement of stated objectives.
6. Qualifications, adequacy, and appropriateness of personnel to accomplish proposed activities.
7. For IPRCs, the degree of commitment measured in terms of injury control personnel, facilities, and activities supported by other funding sources and the likelihood that this commitment will be sustained or expanded in future years.
8. The degree of commitment and cooperation of other interested parties (as evidenced by letters detailing the nature and extent of this commitment and cooperation).
9. The reasonableness of the proposed budget in relation to the proposed program.
10. Plans to become self-sustaining.

B. *A secondary review* of all applications will be conducted.

Factors considered in this review will include:

1. The results of the peer review.
2. The significance of proposed activities as they relate to the achievement of the objectives in *Injury in America*.
3. National needs and geographic balance.
4. Overall distribution among competing IPRC applications between surveillance and epidemiology, prevention, biomechanics, acute care, and rehabilitation.
5. Overall distribution among competing applications between traffic and motor vehicle injury research and other injury control research and demonstrations and among populations addressed (for example, minorities, elderly, children, urban, rural).
6. Budgetary considerations.
7. Plans to become self-sustaining.

X. Applications, Deadlines, and Awards

A. Applications

1. Applications should be submitted on Form PHS-398 (revised May 1982). Applications should adhere to the Errata to the Intruction Sheet for PHS-398 contained in the Grant Application Kit. Applicants should adhere to the page limitations noted in the "Table of Contents" section on page 3 of the PHS 398 form. The original and two copies of the application must be submitted on or before August 11, 1986, to the: Grants Management Officer, Procurement and Grants Office, Centers for Disease Control, 225 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305.

Application kits are available from the CDC Grants Management Officer.

An applicant organization has the option of having specific salary and fringe benefit amounts for individuals omitted from the copies of the application that are made available to outside reviewing groups. If the applicant's organization elects to exercise this option, use asterisks on the original and two copies of the application to indicate those individuals for whom salaries and fringe benefits are being requested; the subtotals must still be shown. In addition, submit an additional copy of page four of Forms PHS-398, completed in full with the asterisks replaced by the amount of the salary and fringe benefits requested for each individual listed. This budget page will be reserved for internal staff use only.

2. Applications are not subject to the review requirements of the National Health Planning and Resource Development Act of 1974 as amended (42 CFR Parts 122 and 123), and are not subject to Inter-Governmental Review pursuant to Executive Order 12372.

B. Deadlines

Applications shall be considered as meeting the deadline set forth in X.A. above if they are either:

1. Received at the above address on or before the deadline date, or
2. Sent on or before the deadline date and received in time for submission to the peer review committee. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)
3. Applications which do not meet the criteria in 1. or 2. above are considered late applications and will be returned to the applicant.

C. Awards

Awards will be made based on priority score ranking, secondary review, availability of funds, and such other significant factors deemed necessary and appropriate by the Director, CDC.

For Technical Information Contact: Stuart T. Brown, M.D., Director, Division of Injury Epidemiology and Control, Center for Environmental Health, Centers for Disease Control, Atlanta, Georgia 30333 (404) 454-4542 or FTS 236-4542.

For Business Information Contact: Betty Feeley, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control, 225 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305 (404) 262-6575 or FTS 236-6575.

The Catalog of Federal Domestic Assistance number is 13.136.

Dated: June 5, 1986.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86-13143 Filed 6-9-86; 8:45 am]

BILLING CODE 4160-18-M

Health Resources and Services Administration

Grants for Organ Procurement Organizations; Correction

AGENCY: Health Resources and Services Administration, DHHS.

ACTION: Notice of Availability of Grant Funds; correction.

SUMMARY: This document corrects an error contained in a general notice announcing the availability of grant funds for Organ Procurement Organizations that appeared in the last paragraph of the second column at page

18511 in the **Federal Register** of Tuesday, May 20, 1986 (15 FR 18511). The correction is necessary to show that all applicants are required to comply with Executive Order 12372 as supplemented by 45 CFR Part 100, Intergovernmental Review of Department of Health and Human Services Programs and Activities.

FOR FURTHER INFORMATION CONTACT: Ms. Linda D. Sheaffer, Acting Director, Office of Organ Transplantation, 5600 Fishers Lane, Rockville, Maryland 20857 (301/443-7577).

SUPPLEMENTARY INFORMATION: Accordingly, the Health Resources and Services Administration is correcting the last paragraph of the second column at page 18511 in the **Federal Register** of Tuesday, May 20, 1986 (51 FR 18511) to read as follows: This program is subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs as supplemented by 45 CFR Part 100.

Dated: June 4, 1986.

John H. Kelso,

Acting Administrator.

[FR Doc. 86-12978 Filed 6-9-86; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

National Toxicology Program; Chemicals Nominated, for Testing

SUMMARY: On April 29, 1986, the Chemical Evaluation Committee (CEC) of the National Toxicology Program (NTP) met to review six chemcials nominated for toxicology studies and to recommend the types of studies to be performed. With this notice, the NTP solicits public comment on the six chemicals listed herein.

FOR FURTHER INFORMATION AND SUBMISSION OF COMMENTS CONTACT: Dr. Victor A. Fung, Chemical Selection Coordinator, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Behesda, Maryland 20892, (301) 496-3511.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee (CEC) are published with request for comment in the **Federal Register**. This is done to encourage active participation in the NTP chemical evaluation process, thereby helping the NTP to make more informed decisions as to whether to select, defer or reject chemcials for toxicology study. Comments and data submitted in response to this request are reviewed and summarized by NTP technical staff, are forwarded to the NTP Board of Scientific Counselors for use in their evaluation of the nominated chemicals, and then to the NTP Executive Committee for its decision-making. The NTP chemical selection process is summarized in the **Federal Register**, April 14, 1981 (46 FR 21828), and also in the NTP FY 1985 *Annual Plan*, pages 201-202.

On April 29, 1986, the CEC evaluated six chemicals nominated to the NTP for toxicological studies. The CEC recommended no testing for the following five chemicals: cobalt naphthenate (CAS No. 61789-51-3), di(2-ethylhexyl)sebacate (CAS No. 122-763-3), methylcyclopentadienylmanganese tricarbonyl (CAS No. 12108-13-3), 2-methylquinoline (CAS No. 91-63-4), and 4-methylquinoline (CAS No. 491-35-0). The sixth chemical reviewed by the CEC was 1,3,5-trichloro1,3,5-triazine-2,4,6-(1H,3H,5H)-trione (TTT) (CAS No. 87-90-1). Since this chemical is readily hydrolyzed to cyanuric acid and hypochlorous acid, and industry has preformed chronic toxicology studies on sodium cyanurate, the CEC deferred making recommendations on TT pending receipt and review of the data from the sodium cyanurate studies.

Only one of the six compounds, di(2-ethylhexyl)sebacate, has been previously selected for any type of toxicology study by the NTP. This chemical was nonmutagenic in the *Salmonella* microsomal assay.

Interested parties are requested to submit pertinent information. The following types of data are of particular relevance:

(1) Modes of production, present production levels, and occupational exposure potential.

(2) Uses and resulting exposure levels, where known.

(3) Completed, ongoing and/or planned toxicologic testing in the private sector including detailed experimental protocols and results in the case of completed studies.

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing by July 10, 1986. Any submissions received after the above date will be accepted and utilized where possible.

Dated: June 4, 1986.

David P. Rall, M.D., Ph.D.,

Director, National Toxicology Program.

[FR Doc. 86-12976 Filed 6-9-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Designation of the Limestone Salamander; Area of Critical Environmental Concern

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice that certain public lands in the Folsom Resource Area, Bakersfield District, California are designated as an Area of Critical Environmental Concern (ACEC).

SUMMARY: Notice is hereby given pursuant to authority in the Federal Land Policy and Managment Act of 1976 (sec. 202(c)(3)), 43 CFR Part 1610, and land use decisions developed in the Sierra Management Framework Plan (February 1983), that public land near Beiceberg, California are designated as an Area of Critical Environmental Concern. The approximately 1,600 acres of public land are described as follows.

Mount Diablo Meridian, California

T. 3 S., R. 18 E.,
- Sec. 25, that portion of SE¼SE¼S E¼SW¼SE¼,located South of Right-of-Way (ROW) S1742 (44 LD. 513);
- Sec. 35, NE¼SE¼,SE¼, S½SW¼SE¼, NE¼SW¼SE¼,
- Sec. 36, W½NW¼NE¼,SW¼NW¼NE¼, SW¼NE¼, NW¼SE¼,N½SW¼, S½SW¼NW¼,S½SE¼NW¼, NE¼SE¼NW¼.

T. 4 S., R. 18 E.,
- Sec. 2, Lots, 1, 2, NE¼SW¼, S½SW¼S W¼, NE¼SW¼SW¼, S½NW¼SW¼, S½SE¼NW¼SW¼,
- Sec. 5, SW¼SW¼, S½SE¼SW¼, NW¼SE¼SW¼,
- Sec. 6, that portion of lots 5, 11, 12, and 16 located South of ROW S 1742 (44 L.D. 513);
- Sec. 9, that portion of SE¼ located South of ROW S 1742 (44 L.D. 513);
- Sec. 10, that portion of Lots 1, 5, 6, and 12 located South of ROW S 1742 (44 L.D. 513), Lots 7, 8, 13,
- Sec. 16, Lots 6, 7, 10, and 11, SE¼NW¼
- Sec. 17, NE¼NE¼,

T. 3 S., R. 17 E.,
- Sec. 23, N½NE¼NE¼SW¼, N½NW¼S E¼, NW¼NE¼SE¼, S½SE¼SE¼NE¼,
- Sec. 25, SE¼SE¼NW¼, NE¼NE¼S W¼, W½NW¼SE¼, NW¼SW¼SE¼,
- Sec. 35, S½NE¼NW¼, NE¼SE¼NW¼, W½SW¼NE¼, E½SE¼SE¼NW¼, N½NW¼SE¼,

T. 4 S., R. 18 E.,
- Sec. 1, Lots 9, 10, that portion of Lots 11 and 12 located South of ROW S 1742 (44 L.D. 513), NW¼SW¼,
- Sec. 2, SE¼NW¼NE¼, S½NE¼NE¼,
- Sec. 6, Lots 17, 20, and 21,
- Sec. 10, NE¼SE¼SW¼,E½SE¼S E¼SW¼, S½S½SE¼,

Sec. 13, N½S½S½.S½N½S½.S½SW¼S W¼.
Sec. 14, NE¼SE¼.

This ACEC is established to protect the limestone salamander (*Hydromantes brunnus*), which is listed as rare by the State of California. These salamanders are currently known to inhabit limestone outcrops and associated talus slopes in Mariposa County only along the Merced River and its tributaries between Briceberg and Bagby, California.

The most serious threat to the habitat of the limestone salamander is road or trail construction associated with mining. As there are numerous mining claims in the area, this threat is significant. This designation provides significant discretionary control on surface disturbances associated with mining claims by requiring plans of operations for non-casual use as described by 43 CFR Part 3809.

Opportunities for public participation were provided through the Management Framework Plan process.

FOR FURTHER INFORMATION CONTACT: Deane K. Swickard, Folsom Resource Area Manaager, 63 Natoma Street, Folsom, California 95630; (916) 985–4474.

Dated: June 2, 1986.

Robert D. Rheiner, Jr,

District Manager.

[FR Doc. 86–13072 Filed 6–9–86; 8:45 am]

BILLING CODE 4310–40–M

[CA 18105]

Realty Action; Exchange of Public and Private Lands in San Bernardino Co., CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment to Notice of Realty Action, Exchange of Public Land.

SUMMARY: This action amends the Notice of Realty Action on the proposed exchange of Public Land and Non-Federal Lands, originally published in the Federal Register on May 7, 1986 (51 FR 80, Page 16900).

The total acreage of Non-Federal Land is recalculated to be 18753.01 and not 18993.02. Also the legal description of Non-Federal Land in lots 2, 3, 5, 7, 21, and SW¼, and SW¼SE¼ of Tract 79 in Sec. 13 of T. 12N., R. 17 E., SBM. is revised to the following: SW¼, SW¼SE¼ of Sec. 13, of T. 12 N., R. 17 E., SBM.; lots 2, 3, 5, 7 are now within Sec. 24 of T. 12 N., R. 17 E., SBM.; lot 21 is now within Sec. 14 of T. 12 N., R. 17 E., SBM.

In addition to those sections previously listed under lands to be subject to reservations is added Sec. 32 of T. 5 N., R. 14 E., SBM. for the right-of-way granted to Pacific Bell by LA–047694.

All other legal descriptions, terms and conditions cited in the previously published Notice of Realty Action remain in effect.

Dated: June 4, 1986.

Wesley T. Chambers,

Acting District Manager.

[FR Doc. 86–13000 Filed 6–9–86; 8:45 am]

BILLING CODE 4310–40–M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202–395–7340.

Title: Production Estimate.

Abstract: The collection is needed to provide data on mineral production for the Secretary's New Year report. It is used as an annual production estimate. The data are published by commodity for use by Government agencies, industry, education programs and the general public. The respondents are producers of Ferrous Metals, industrial Minerals and Nonferrous Metals.

Bureau Form Number: 6–1209–A.

Frequency: Annually.

Description of Respondents: Producers of Ferrous Metals, Industrial Minerals, and Nonferrous Metals.

Annual Responses: 7,150.

Annual Burden Hours: 1,788.

Bureau clearance officer: James T. Hereford, 202–634–1125.

Robert C. Horton,

Director, Bureau of Mines.

May 2, 1986.

[FR Doc. 86–12995 Filed 6–9–86; 8:45 am]

BILLING CODE 4310–53–M

National Park Service

Cumberland Island National Seashore, GA; Designation of Boundary

Section 1 of the Act of October 23, 1972, 86 Stat. 1066, authorized the Secretary of the Interior to make adjustments in the boundary of Cumberland Island National Seashore. Notice is given that the boundary of the Cumberland Island National Seashore had been revised pursuant to the above act, to include the lands depicted on boundary map numbered 40,000 F dated November 1985, prepared by the Denver Service Center of the National Park Service.

This map is on file and available for inspection in the administrative office of the Cumberland Island National Seashore, P.O. Box 806, St. Marys, Georgia 31558, and in the offices of the National Park Service, Department of the Interior, Washington, DC 20013–7127.

Dated: March 6, 1986.

Robert M. Baker,

Regional Director, Southeast Region, National Park Service.

[FR Doc. 86–13050 Filed 6–9–86; 8:45 am]

BILLING CODE 4310–70–M

Intention to Negotiate Concession Contract; Rough Canyon Mariana, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965, 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 Rough Canyon Mariana, 1144, Inc., authorizing it to continue to provide marine, related fueling, boat and motor rental facilities and services for the public at Amistad Recreation Area, Texas, for a period of ten (10) years from January 1, 1987 through December 31, 1996.

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 will expire by limitation of time on December 31, 1986, 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.

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 Superintendent, Amistad Recreation Area, P.O. Box 420367, Del Rio, Texas 78842-0367, telephone number (512) 775-7491, for information as to the requirements of the proposed contract.

Dated: April 14, 1986.

Robert I Kerr,

Regional Director, Southwest Region.

[FR Doc. 86-13051 Filed 6-9-86; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 31, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 25, 1986.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Maricopa County

Wickenburg *Cactus Inn (Wickenburg MRA)*, 158 Yavapai
Wickenburg *City Hall and Jail (Wickenburg MRA)*, 117 Yavapai
Wickenburg *Garcia School (Wickenburg MRA)*, 308 N. Tegner
Wickenburg *House at 160 Apache (Wickenburg MRA)*, 160 Apache
Wickenburg *House at 170 Center (Wickenburg MRA)*, 170 Center
Wickenburg *House at 185 Washington (Wickenburg MRA)*, 185 Washington
Wickenburg *Jacobs House (Wickenburg MRA)*, 355 Jefferson
Wickenburg *MacLennan House (Wickenburg MRA)*, 338 Jefferson
Wickenburg *Masonic Hall (Wickenburg MRA)*, 108 Tegner
Wickenburg *Municipal Light Plant (Wickenburg MRA)*, 245 N. Washington
Wickenburg *Old Barber Shop (Wickenburg MRA)*, 68 Frontier
Wickenburg *Old Brick Post Office (Wickenburg MRA)*, 144 Frontier
Wickenburg *Safeway Pay'n Takit (Wickenburg MRA)*, 42 N. Tegner
Wickenburg *Santa Fe Railroad Depot (Wickenburg MRA)*, 215 N. Frontier
Wickenburg *Shride House (Wickenburg MRA)*, 57 Tegner
Wickenburg *Storms House (Wickenburg MRA)*, 130 Center
Wickenburg *Thompson, P.J., House (Wickenburg MRA)*, 141 N. Washington
Wickenburg *Upton, George B., House (Wickenburg MRA)*, 171 Washington
Wickenburg *Vernetta School (Wickenburg MRA)*, 1 Apache St.
Wickenburg *Wickenburg High School Gymnasium (Wickenburg MRA)*, 252 S. Tegner
Wickenburg *Wickenburg High School and Annex (Wickenburg MRA)*, 250 S. Tegner
Wickenburg *Wickenburg Ice and Cold Storage (Wickenburg MRA)*, 48 S. Coconino
Wickenburg *Wisdom House (Wickenburg MRA)*, 48 Kerkes

ARKANSAS

Pulaski County

Little Rock, *Gibb-Watkins House*, 1858 Arch St.

INDIANA

Dekalb County

Auburn, *Downtown Auburn Historic District*, Roughly bounded by Fourth, Cedar, Eleventh, and Jackson Sts.

Huntington County

Huntington, *William Street School*, 521 William St.

Marion County

Indianapolis, *Horace Mann Public School #13*, 714 E. Buchanan St.
Indianapolis, *Irvington Historic District*, Roughly bounded by Ellenberger Park, Pleasant Run Creek, Arlington Ave., B & O RR Tracks, & Emerson Ave.

Porter County

Beverly Shores, *Beverly Shores—Century of Progress Architectural District*, 208, 210, 212, 214, & 215 Lake Front Dr.

Wabash County

Wabash, *Downtown Wabash Historic District*, Roughly bounded by Hill, Wabash, Canal, & Miami Sts.

IOWA

Allamakee County

Ludlow vicinity, *Meier, Fred W., Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 9
New Albin vicinity, *Reburn Thomas, Polygonal Barn (Iowa Round Barns: Sixty Year Experiment TR)*, Off IA 26

Benton County

Eagle Center vicinity, *McQuilkin, James Greer, Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, CR D-56
Eagle Center vicinity, *Round Barn, Bruce Township Section 3 (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 218
La Porte vicinity, *Round Barn, Bruce Township Section 6 (Iowa Round Barns: The Sixty Year Experiment TR)*, W of US 218

Black Hawk County

Janesville vicinity, *Round Barn Washington Township (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 218

Bremer County

Plainfield vicinity, *Octagon Barn Polk Township (Iowa Round Barns: The Sixty Year Experiment TR)*, E of US 218

Buchanan County

Hazelton vicinity, *McKenzie, Ezra, Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 150

Carroll County

Lanesboro vicinity, *Fobes Octagon Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, IA 286

Chicksaw County

Alta Vista vicinity, *Darrow, George, Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, CR T-76

Clay County

Gillett Grove vicinity, *Ross, Seymour, Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 374

Clayton County

Millville vicinity, *Round Barn, Millville Township (Iowa Round Barns: The Sixty Year Experiment TR)*, US 52

Devis County

Bloomfield vicinity, *Terrence Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 2

Dubuque County

Dubuque, *Round Barn, Dubuque Township (Iowa Round Barns: The Sixty Year Experiment TR)*, 2810 Cascade Rd.

Emmet County

Armstrong vicinity, *Thomsen Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 15

Fayette County

Arlington vicinity, *Nus, August, Polygonal Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, CR C-2W
West Union vicinity, *Grimes Octagon Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 56

Floyd County

Charles City vicinity, *Brooks Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, W of US 218
Charles City vicinity, *Spotts Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, IA 14

Franklin County

Iowa Falls vicinity, *Wood, Herman, Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, US 65

Green County

Grand Junction vicinity, *Frantz Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 30

Guthrie County

Jamaica vicinity, *Octagon Barn, Richland Township (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 141

Hamilton County

Blairsburg vicinity, *Oakland, William, Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 68

Harrison County

Pisgah vicinity, *Haner, William, Polygonal Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, CR L-16

Henry County

Salem vicinity, *Holtkamp Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off U.S. 218

Howard County

Cresco, *Polygonal Barn, New Oregon Township (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 39

Ida County

Cushing vicinity, *Waveland Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 20

Iowa County

Conroy vicinity, *Plagmann Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 209

Jackson County

Bellevue vicinity, *Dyas Hexagonal Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, US 52

Van Buren vicinity, *Polygonal Barn, Van Buren Township (Iowa Round Barns: The Sixty Year Experiment TR)*, IA 64

Johnson County

Downey vicinity, *Secrest Octagon Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 6

Sharon Center vicinity, *Miller Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, CR F-62

Sharon Center vicinity, *Roberts Octagon Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, CR W-62

West Liberty vicinity, *Polygonal, Lincoln Township (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 6

Kossuth County

Titonka vicinity, *Longbottom Polygonal Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 226

Marshall County

State Center vicinity, *Dobbin Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off CR S-52

Monona County

Mapleton vicinity, *Round Barn, Cooper Township (Iowa Round Barns: The Sixty Year Experiment TR)*, IA 141

Monroe County

Tyrone vicinity, *Clark Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, CR T7H

Montgomery County

Stennett vicinity, *Round Barn, Pilot Grove Township (Iowa Round Barns: The Sixty Year Experiment TR)*, CR H-20

Sciola vicinity, *Round Barn, Washington Township (Iowa Round Barns: The Sixty Year Experiment TR)*, US 71

Page County

Hepburn vicinity, *McCoy Polygonal Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 71

Pottawattamie County

Shelby vicinity, *Eckle Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 168

Ringgold County

Diagonal vicinity, *Buck, W. J., Polgonal (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 169

Scott County

Blue Grass vicinity, *Nebergall "Knoll Crest" Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Telegraph Rd.

Story County

Iowa Center vicinity, *Octagon Barn, Indian Creek Township (Iowa Round Barns: The Sixty Year Experiment TR)*, Off CR S-14

Tama County

Buckingham vicinity, *Round Barn, Buckingham Township (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 63

Traer vicinity, *Young, John W., Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off US 63

Van Buren County

Cantril vicinity, *Wickfield Round Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 2

Warren County

Milo vicinity, *Octagon Barn, Otter Township (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 205

Washington County

Wellman vicinity, *Jordan, Thomasm Polygonal Barn (Iowa Round Barns: The Sixty Year Experiment TR)*, Off IA 114

Winnebago County

Scarville vicinity, *Round Barn, Norway Township (Iowa Round Barns: The Sixty Year Experiment TR)*, Off CR R-60

MARYLAND

Frederick County

Middletown, *Shafer's Mill, 3018 Bennies Hill Rd.*

MASSACHUSETTS

Bristol County

Acushnet, *Long Plain Friends Meetinghouse*, 1341 N. Main St.

Fall River, *Manley, William M., House (Fall River MRA)*, 610 Cherry St.

Essex County

Beverly, *Fish Flake Hill Historic District (Boundary Increase)*, Roughly bounded by Cabot, Bartlett & Water Sts.

Hampden County

Holyoke, *North High Street Historic District*, High St. between Dwight & Lyman Sts.

Worcester County

Spencer, *Spencer Town Center Historic District*, Main between High & North Sts.

MINNESOTA

Otter Tail County

Fergus Falls, *Fergus Falls State Hospital Complex*, MN 297

St. Louis County

Duluth, *Sacred Heart Cathedral and Cathedral School*, 211 W Fourth St. & 206 W Fourth St.

MISSISSIPPI

Attala County

Kosciusko, *Johnson—Sullivant House*, 209 S. Wells St.

NEW YORK

Nassau County

Port Washington, *Dodge, Thomas, Homestead*, 58 Harbor Rd.

Westchester County

Pelham Manor, *Edgewood House*, 908 Edgewood Ave.

OREGON

Clatsop County

Astoria, *Young, Andrew, House*, 3720 Duane Ave.

TENNESSEE

Crockett County

Alamo, *Bank of Alamo*, 103 S Bells St.

Hamilton County

Chattanooga, *Trigg-Smartt Building*, 701-707 Broad St.

Macon County

Red Boiling Springs, *Cloyd Hotel (Early Twentieth Century Resort Buildings of Red Boiling Springs, TR)*, Market St.

Red Boiling Springs, *Counts Hotel (Early Twentieth Century Resort Buildings of Red Boiling Springs TR)*, Market St.

Red Boiling Springs, *Donoho Hotel (Early Twentieth Century Resort Buildings of Red Boiling Springs TR)*, Market St.

Red Boiling Springs, *Donoho House (Early Twentieth Century Resort Buildings of Red Boiling Springs TR)*, Market St.

McMinn County

Athens, *Keith, Alexander H., House*, 110 Keith Lane

Montgomery County

Rossview, *White Chapel*, Rossview Rd.

Overton County

Livingston vicinity, *Standing Stone Rustic Park Historic District (State Parks in Tennessee Built by the CCC and the WPA between 1934—1942 TR*, Standing Stone State Park

Pickett County

Jamestown vicinity *Pickett State Rustic Park Historic District (State Parks in Tennessee Built by the CCC and the WPA between 1934—1942 TR)*, Pickett State Park and Forest

Rutherford County

Lascassas vicinity, *Dement House*, Cainsville Pike

Washington County

Johnson City vicinity, *Knob Creek Historic District*, Gray Station, Knob Creek, & Fair Ridge Rds.

TEXAS

Comal County

New Braunfels, *Comal Hotel and Klein-Kuse House*, 295 E. San Antonio & 165 Market Sts.

WISCONSIN

Dane County

Madison, *Langdon Street Historic District*, Roughly by N. Lake St., Lake Mendota, Wisconsin Ave., & Langdon St.

Winnebago County

Oshkosh, *Paine Lumber Company Historic District*, Off Congress Ave. roughly between High, New York & Summit Aves., & Paine Lumber Access Rd.

[FR Doc. 86-13052 Filed 6-9-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 22; Amdt. 6]

Pacific Inland Tariff Bureau-Agreement

June 4, 1986.

Notice to the Parties:

A decision by the Commission, decided May 23, 1986, and served May 30, 1986 (51 FR 19800, June 2, 1986), did not reflect the correct case designation under the address listed for comments. It should read as follows:

"**ADDRESS**: An original and 10 copies, if possible, of comments should be sent to:

Section 5a Application No. 22, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423"

Please amend your copies accordingly.

Noreta R. McGee,

Acting Secretary.

[FR Doc. 86-13017 Filed 6-9-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket Nos. AB-69 (Sub-20) and AB-19 (Sub-No. 111)]

Western Maryland Railway Co.; Abandonment in Allegany County, MD, and the Baltimore and Ohio Railroad Co.; Discontinuance of Service in Allegany County, MD; Findings

The Commission has issued a certificate authorizing Western Maryland Railway Company to abandon and The Baltimore and Ohio Railroad Company to discontinue service over 19.45 miles of railroad line (1) between milespost 165.74 near Cumberland and milespost 180.12 near Number Nine, known as the Frostburg Subdivision, and (2) between milesport 0.00 near Frostburg and milespost 5.07 near Mt. Savage, known as the Mt. Savage Industrial Track, in Allegany County, MD. The abandonment and discontinuance certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelop containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

By the Commission, Division 2, Commissioners Andre, Gradison, and Simmons. Commissioner Simmons dissented with a separate expression.

Noreta R. McGee,

Acting Secretary.

[DR Doc. 13073 Filed 6-9-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree in Clean Water Act Enforcement Action

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *City of Somerset, Kentucky*, was lodged with the United States District Court for the Eastern District of Kentucky on May 30, 1986. The proposed consent decree requires the City to modify its sludge disposal practices, prepare an operation and maintenance manual, upgrade laboratory practices and pay a civil penalty of $37,500.

The Department of Justice will receive for thirty (30) days from the publication date of this notice, written comments relating to the decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and refer to *United States* v. *City of Somerset*, 90-5-1-1-2189.

The consent decree can be examined at the office of the United States Attorney, Limestone and Barr Streets, Lexington, Kentucky, the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia, and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, (Room 1515), Ninth and Pennsylvania Avenue NW., Washington, DC 20530. Copies of the consent decree can be obtained in person or by mail from the Environmental Enforcement Section at the above address.

F. Henry Habich II,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 86-13071 Filed 6-9-86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OBM)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OBM) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission

they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping report requirement.

The title of the recordkeeping/reporting requirement.

The OBM and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the OBM reviewer, Nancy Wentzler, telephone (202) 395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503. Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OBM should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration
Employment Service Program Reporting System
1205-0240; ETA RC 79
Quarterly
State or local governments
208 respondents; 10,320 hours; 1 form

The Employment Service Program Reporting System is to provide data on State public employment service agency program activity and expenditures, including services to veterans, for use at the Federal level by the U.S. Employment Service and the Veterans' Employment and Training Service in program administration and to provide reports to the President and Congress. Form VETS-200 is being revised to provide an additional column for reporting of Total Applicants for each of the DVOP and LIVER sections.

Extension

Employment and Training Administration
Benefit Appeals
1205-0172, ETA 5130/MA 5-130
Monthly
State or local governments
53 respondents; 2,544 hours; 1 form

This report is used to monitor the benefit appeals process, to evaluate compliance with appeals promptness standards and to develop plans for remedial action. The report is also needed for budgeting and workload figures.

Signed at Washington, DC, this 5th day June, 1986.

Paul E. Larson,

Departmental Clearance Office.

[FR Doc. 86-13079 Filed 6-9-86; 8:45 am]

BILLING CODE 4510-30-M

Office of Assistant Secretary for Veterans Employment and Training

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under Section 308, Title III, Pub. L. 97-306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Tuesday, July 8, 1986, at 10:00 A.M., in the Secretary's Conference Room, S-2508, FPB.

Items to be discussed are: Employment and Training Issues; Expansion of Entrepreneurship Program; Private Sector Initiatives Report; Public Sector Coordination Report.

The public is invited.

Signed at Washington, DC, this 5th day of June, 1986.

Donald E. Shasteen,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 86-13078 Filed 6-9-86; 8:45 am]

BILLING CODE 4510-79-M

Employment and Training Administration

[TA-W-15,447]

American Thread Co., Tallapoosa, GA; A Further Determination

Pursuant to the U.S. Court of International Trade (USCIT) remand, dated April 2, 1986, in *Donna Kelley, pro se.* v. *Secretary of Labor* (USCIT No. 85-03-00437) concerning the denial of certification for workers at the American Thread Company, Tallapoosa, Georgia, the Department makes the following further determination.

The Court found that: (1) There was some question as to whether the sales data represented total corporation sales of Tallapoosa's sales; (2) the Department's survey of American Thread's customers does not provide sufficient support for the Secretary's denial of eligibility to apply for trade adjustment assistance; and (3) the Secretary should have included in the survey or indicated in the record the reason for failing to include the Canadian firm which had decreased its purchases by a greater amount than any other firm in the survey for the first eight months of 1984 compared to the same period in 1983.

On remand, the Office of Trade Adjustment Assistance received evidence from American Thread that the sales data obtained from them during the investigation represented total corporate sales of industrial thread, not Tallapoosa's sale. The Tallapoosa plant produced an intermediate product that was finished at another plant before it could be marketed.

Also on remand, an addition error was found on the data sheet for corporate sales in the first quarter of 1982. The correction results in a substantially lower 1983 quantity sales decline. The corrected data also establish that sales decreased only marginally from 1982 to 1983, rather than declining amount as relied upon by the Court in remanding the matter. In this corrected context the results of the Department's survey of customers (e.g. those with declining purchases from the subject firm and no imports) is significant.

With respect to the Department's survey, a list of customers was provided by the petitioning firm. Most of the customers on the list had substantially increased their purchases from American Thread in 1983 compared to 1982 and were not surveyed since there was no actual adverse impact on American Thread's sales by these customers. The Department received responses from most of the remaining customers on the list which had decreased purchases from American Thread in 1983 compared to 1982. On remand, the Department surveyed the only remaining customer from which a response was not received. The customers surveyed accounted for a substantial percent of American Thread's 1983 sales decline and the

surveyed results are a substantial basis for the purpose of determining whether increases of imports contributed importantly to decreased production or sales and to worker separations. *See, e.g., Estate of Finkel* v. *Donovan* 614 F. Supp. 1245, 1250–51 (1985). All responses reported no import purchases. Therefore, it cannot be found that the customers responsible for a substantial portion of the 1983 sales decline reduced their purchases due to increased import purchases.

As the Court noted, in order to be eligible to apply for trade adjustment assistance, the petitioners must show, among other things, that sales or production or both of the workers' firm have decreased absolutely during the relevant time period. *Kelley* v. *Brock*, No. 86–39, slip op. 2 fn 1. With respect to the first nine months of 1984, the record clearly shows that petitioners failed to establish this element of their claim because the firm experienced an increase in overall sales of industrial thread compared to the same period in 1983.

With respect to the Court's objection concerning the absence of the Canadian customer from the Department's survey, the Department, on remand, obtained evidence from both American Thread and the Canadian customer that its purchases from American Thread were only for the Canadian market. The Canadian firm was omitted from the Department's survey because those sales were for the export market. Sales to the export market would not probide a basis for certification.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers at American Thread Company, Tallapoosa, Georgia.

Signed at Washington, DC, this 23rd day of May 1986.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 86–13075 Filed 6–9–86; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 20, 1986.

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 June 20, 1986.

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 30th day of May 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of Petition	Petition No.	Articles produced
Hughes Tool Co. (workers)	Williston, ND	5/28/86	5/21/86	TA-W-17,454	Supply bits to drillers/producers of oil.
Dresser-Magcobar (workers)	Williston, ND	5/27/86	5/19/86	TA-W-17,455	Supply drilling fluid additives for oil drilling.
Wellpro, Inc. (workers)	Williston, ND	5/27/86	5/13/86	TA-W-17,456	Provides tools for oil companies.
Reichard Coulston, Inc. (workers)	Bethlehem, PA	5/27/86	5/16/86	TA-W-17,457	Iron oxide pigments.
Christina Dress Co. (ILGWU)	Shenandoah, PA	5/20/86	5/19/86	TA-W-17,458	Women's dresses.
Maverick Tube Corp. (USWA)	Union, MO	5/20/86	5/15/86	TA-W-17,459	Oil country tubular goods.
F.E. Hale Manufacturing Co. (company)	Herkimer, NY	5/27/86	5/8/86	TA-W-17,460	Piano parts.
Inland Steel Mining Co., Minorca Mine (USWA)	Virgina, MN	5/27/86	5/15/86	TA-W-17,461	Taconite mining.
Kaiser Steel Corp. (Boilermakers)	Napa, CA	5/5/86	4/25/86	TA-W-17,462	Off oil rig platforms and other steel fabricated products.
Burnham Trucking Inc. (workers)	West Milwaukee, WI	5/27/86	5/22/86	TA-W-17,463	Truck hauling for Inryco, Inc.
Inryco, Inc. (workers)	West Milwaukee, WI	5/27/86	5/22/86	TA-W-17,464	Metal fabrication.
Spicer Transmission (UAW)	Toledo OH	5/27/86	5/16/86	TA-W-17,465	Heavy and medium duty truck transmissions.
Getter Trucking, Inc. (workers)	Williston, ND	5/27/86	5/19/86	TA-W-17,466	Move and supply oil well rigs.
Forsheim Shoe Co. (workers)	Hermann, MO	5/20/86	5/3/86	TA-W-17,467	Mens shoes.
Texas Flange (workers)	Odessa, TX	5/12/86	5/1/86	TA-W-17,468	Oil rig machine work manufacture and repair.
Well Made Dress Corp. (company)	Warren, RI	5/26/86	5/19/86	TA-W-17,469	Women dresses and sportswear.
Maul Technology Co. (GPPAW)	Millville, NJ	5/28/86	5/14/86	TA-W-17,470	Glass container forming machinery.
Holiday Apparel, Inc. (workers)	Hollidaysburg, PA	5/14/86	5/12/86	TA-W-17,471	Ladies blouses and jackets.
Transue & Williams Corp. (workers)	Alliance, OH	5/9/86	5/2/86	TA-W-17,472	Forged steel products.
Magic Marker Industries, Inc. (company)	Trenton, NJ	5/28/86	5/21/86	TA-W-17,473	Writing instruments.
Crane Company (USWA) & (company)	Chattanooga, TN	5/28/86	5/19/86	TA-W-17,474	Steel valves.
Xco of Colorado, Inc. (workers)	Denver, CO	5/16/86	4/29/86	TA-W-17,475	Mud-logging (crude oil drilling).
Stanley Blacker Now for Women (ILGWU)	New York, NY	5/22/86	5/19/86	TA-W-17,476	Showroom and samplemakers.
General Brewing Co. (workers)	Vancouver, WA	5/28/86	5/16/86	TA-W-17,477	Lucky Lager Beer.
Mon-Dak Tank, Inc. (workers)	Williston ND	5/27/86	5/15/86	TA-W-17,478	Supplies labor for construction and maintenance of oil production and processing equipment.
Smith Energy Services (workers)	Golden, Co	5/14/86	5/8/86	TA-W-17,479	Oilwell stimulation.
Dresser Industries, Swaco Div. (workers)	Williston, ND	5/22/86	5/5/86	TA-W-17,480	Centrifuges, mud cleaners, d-sanders, d-silters, for oil well exploration.
ASARCO, Inc. Zinc Oxide Plant (international Chemical workers).	Columbus, OH	5/20/86	5/15/86	TA-W-17,481	Zinc oxide.
Smith Victor Corp. (USWA)	Griffith, IN	5/22/86	5/19/86	TA-W-17,482	Camera tripods and light for photography.
Pam Jo Manufacturing Co. (workers)	East Newark, NJ	5/13/86	5/5/86	TA-W-17,483	Mens outerwear.
Macwhyte Wire Rope Co. (UAW)	Kenosha, WI	5/20/86	5/14/86	TA-W-17,484	Wire, wire rope, strand, slings and aircraft assemblies.
Armstrong Rubber Co. (URW)	Madison, TN	5/20/86	5/14/86	TA-W-17,485	Radial passenger car tires.
Energy Manufacturing Co. (ACTWU)	St. Paul, MN	5/5/86	5/1/86	TA-W-17,486	Men, ladies, boys jackets car coats and ladies coats.
Baker Service Tools (workers)	Casper, WY	5/15/86	5/12/86	TA-W-17,487	Supply tools to oil wells.
Prane Energy (workers)	Watford City ND	5/9/86	5/1/86	TA-W-17,488	Crude oil.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of Petition	Petition No.	Articles produced
Williston Industrial Supply Corp. (WISCO) (workers)	Williston, ND	5/28/86	5/12/86	TA-W-17,489	Supplies materials/equipment for oil drilling.
Williston Steel Works (company)	Williston, ND	5/28/86	5/21/86	TA-W-17,490	Fabrication/welding of oil field products made of steel/sheet metal.
Avondale Mills (workers)	Eufaula, AL	5/7/86	5/3/86	TA-W-17,491	Yarn.
(The) Budd Co. (UAW)	Frankfort, OH	5/9/86	5/6/86	TA-W-17,492	Heavy truck wheels.
Dan River, Inc. (workers)	Wetumpka, AL	5/14/86	5/8/86	TA-W-17,493	Yarn.
ERCO Industries, Inc. (workers)	Monroe, LA	5/7/86	5/1/86	TA-W-17,494	Sodium chlorate.
Moore Mill & Lumber Co. (LPIW)	Bandon, OR	5/7/86	4/22/86	TA-W-17,495	Lumber-sawmill.
Mustang Tripsaver Inc. (company)	Corpus Christi TX	5/27/86	5/15/86	TA-W-17,496	Shocktool, down hole shock absorbers.
Pitman Casing (workers)	Williston, ND	5/22/86	5/15/86	TA-W-17,497	Oilfield services.
Rubin Grais & Son (ACTWU)	Chicago, IL	5/7/86	5/5/86	TA-W-17,498	Leather and woven cloth.
Tex-Tec Industries, Inc. (workers)	Auburn, ME	5/22/86	5/1/86	TA-W-17,499	Filters, oilers and rolls for copy machine.
Toby Fashions, Inc. (ILGWU)	Union City, NJ	5/20/86	5/13/86	TA-W-17,500	Ladies coats.
Zeller Corp. (workers)	Defiance, OH	5/14/86	5/9/86	TA-W-17,501	Automobile and transportation parts.

[FR Doc. 86-13074 Filed 6-9-86; 8:45 am]

BILLING CODE 4510-30-M

Trade Adjustment Assistance (TAA) Program; General Administration Letter on Operating Instructions for Implementing Amendments to the TAA Program in Public Law 99-272, The Consolidated Omnibus Budget Reconciliation Act of 1985

Title XIII of Pub. L. 99-272, The Consolidated Omnibus Budget Reconciliation Act of 1985, enacted on April 7, 1986, amends the trade adjustment assistance provisions of the Trade Act of 1974 by extending the program for six (6) years to September 30, 1991; requiring eligible workers to participate in a job search program, where reasonably available, as a condition for receiving trade readjustment allowance (TRA) payments; changing the number of weeks of employer authorized leave credited to satisfy the 26 weeks of employment in the last 52 weeks to qualify for TRA; extending the period to receive basic TRA from 52 weeks to 104 weeks (no increase in the number of weeks payable); and making other changes. The law also authorized the restoration of TRA payments to eligible workers retroactively to weeks beginning after December 18, 1985.

The General Administration Letter (GAL) provides operating instructions to State Employment Security Agencies for implementing and administering the amendments to the TAA program. The GAL published below was mailed to all State agencies on May 23, 1986.

Signed at Washington, DC, this 29th day of May 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

U.S. DEPARTMENT OF LABOR

Employment and Training Administration

Washington, D.C. 20213

Classification Trade Act.

Correspondence Symbol TET.

Date: May 23, 1986.

Expiration Date: May 31, 1987.

Directive: General Administration Letter No. 7-86

To: All State Employment Security Agencies

From: Barbara Ann Farmer, Acting Administrator, Office of Regional Management

Subject: Operating Instructions for Implementing Amendments to the Trade Adjustment Assistance (TAA) Program in Pub. L. (P.L.) 99-272, The Consolidated Omnibus Budget Reconciliation Act of 1985

1. *Purpose.* To inform State agency officials of their responsibilities for implementing and administering the amendments to the TAA program in Title XIII of Pub. L. 99-272, The Consolidated Omnibus Budget Reconciliation Act of 1985 (1986 amendments).

2. *Reference.* Trade Act of 1974, Pub. L. 93-618, as amended by Pub. L. 99-272.

3. *Background.* The Trade Act of 1974 provides adjustment assistance in the form of reemployment services, training, job search and relocation allowances and trade readjustment allowances (TRA) to individuals whose unemployment is linked to increased imports of foreign-made products. Pub. L. 99-272, enacted on April 7, 1986, amends the trade adjustment assistance provisions of the Trade Act of 1974 by extending the program for six (6) years to September 30, 1991; requiring participation in a job search program, where reasonably available, as a condition for receiving TRA payments; changing the number of weeks of employer authorized leave credited to satisfy the 26 weeks of employment in the last 52 weeks to qualify for TRA; extending the period to receive basic TRA from 52 weeks to 104 weeks (no increase in the number of weeks payable); and making other changes.

While operating instructions for implementing amendments restoring TRA payments to eligible workers have already been communicated to State agencies, they are also included herein.

4. *Effective Dates:* The amendments to Chapter 2 (Adjustment Assistance for Workers) of Title II of the Trade Act of 1974, in Pub. L. 99-272, became effective on April 7, 1986.

The job search program amendment applies to workers certified under petitions for trade adjustment assistance that were filed with the Department on or after April 7, 1986.

The payment of TRA to eligible workers is authorized retroactively to weeks beginning after December 18, 1985.

No assistance, allowances, or any other payment may be provided under Chapter 2 of Title II of the Trade Act of 1974, after September 30, 1991.

5. *Basic Provisions of 1986 Amendments.*

a. *Job Search Program.* Amended Section 231(a) requires workers to participate in a job search program (JSP) as a condition for receiving trade readjustment allowances (TRA), except where the Secretary determines that a JSP is not reasonably available.

A JSP means a job search workshop or a job finding club.

(1) *Job search workshop* means a 1 to 3 day seminar designed to provide participants with knowledge that will enable the participants to find jobs. Subjects should include, but not be limited to, labor market information, resume writing, interviewing techniques, and techniques for finding job openings.

(2) *Job finding club* means a job search workshop which includes a period of 1 to 2 weeks of structured, supervised activity in which participants attempt to obtain jobs.

Workers certified for TAA under petitions filed on or after April 7, 1986 are subject to the job search program. Because there is a time lag between the

filing of petitions and issuing determinations on those petitions, workers will not be subject to the JSP provision for several months.

Separate operating instructions for implementing the job search program will be furnished to State agencies in a subsuquent GAL.

b. *Qualifying Requirements for TRA.* Amended Section 231(a)(2) changes weeks of employer-authorized leave that can be counted to qualify for TRA for workers who have been on leave for purposes of maternity, injury, vacation, military, sickness, and service as a labor organization representative. A maximum of 7 weeks credit for these specified types of leave can be used in establishing that the worker had at least 26 weeks of employment in the 52 weeks ending with the week of separation, at wages of $30 or more a week, in adversely affected employment with a single firm or subdivision of a firm. All weeks of leave in which a worker received workers' compensation can be used to satisfy the 26 week requirement. Weeks of qualifying leave include:

(1) Employer authorized leave for purposes of vacation, sickness, injury, maternity, and inactive or active duty military service for training.

(2) Disability that is compensable under a workers' compensation law or plan of a State or the United States.

(3) Employment that was interrupted in order to serve as a full-time representative of a labor organization in such firm or subdivision.

In the case of weeks described in paragraphs (1) and (3), or both, not more than 7 weeks may be treated as weeks of employment. Up to 26 weeks of leave described in paragraph (2) may be used.

This change in crediting weeks of specified leave to qualify for TRA will apply only to initial claims filed by eligible workers on or after April 7, 1986.

c. *Duration of TRA.* Amended Section 233(a)(2) expands the time period for paying basic TRA benefits from 52 weeks to 104 weeks. While this amendment extends the payment period it does not change the number of weeks payable.

An individual shall not be paid basic TRA for any week after the 104-week eligibility period beginning with the first week following the first week in the period covered by the certification with respect to which the individual has first exhausted all rights to regular UI compensation.

Only those claimants with 52 week TRA eligibility periods ending on or after April 7, 1986, will have their eligibility periods extended to 104 weeks. Additional weeks of TRA for training may be paid beyond the 104-week basic TRA eligibility period.

Workers interested in pursuing training should be advised of the 210 day time limit for filing a bona fide training application to quality for the additional weeks of TRA.

d. *Limit.* No weekly TRA will be paid to a worker who receives on-the-job training during the week. The amended Section 233(e) becomes effective for weeks beginning on or after April 7, 1986.

e. *Advising TRA Claimants to Apply for Training.* Amended Section 239(f) requires the State UI agency to advise each adversely affected worker who files a claim for TRA to apply for training with the State agency responsible for providing reemployment services.

State UI agency records must be documented to show that the claimant was properly advised to apply for training with the appropriate agency.

f. *Delivery of Reemployment Services.* Amended Section 239(f) also requires the State agency providing reemployment services, including training, to interview the adversely affected worker, within 60 days after the worker makes application for training, regarding suitable training opportunities available under Section 236 of the Trade Act of 1974, and to review those opportunities with the worker.

The State agency must document its records to show that the interview was held with the worker within the 60-day period.

g. *Approval of Training.* Amended Section 236(a)(1) provides that the Secretary of Labor, through the designated agenc(ies) in the State, shall approve a worker's application for training when the five criteria for approval in section 236 of the Trade Act are met and funds for training are available. The five criteria are:

(1) There is no suitable employment (which may include technical and professional employment) available for an individual. For purposes of this section, the term "suitable employment" means, with respect to an individual, work of substantially equal or higher skill level than the individual's past adversely affected employment, and wages for such work at not less than 80 percent of the individual's average weekly wage;

(2) The individual would benefit from appropriate training;

(3) There is a reasonable expectation (not necessarily a prior guarantee) of employment following completion of training;

(4) Approved training is available to the individual from governmental agencies or private sources, which may include area vocational education schools (as defined in section 195(2) of the Vocational Education Act of 1963), and employers; and

(5) The individual is qualified to undertake and complete such training.

The effect of this change is to make training an entitlement subject to the availability of funds. However, it does not change the existing policy that job search and relocation allowances are entitlement services during the program year, and that program funds must be reserved for these entitlement services.

The criterion concerning reasonable expectation of employment at the conclusion of training is clarified by amended Section 236(a) to indicate that reasonable expectation of employment does not mean employment immediately upon completion of training. While immediate employment is not required, approval of training must continue to be in occupational areas that are in demand.

h. *Approved Training.* Section 236(a) is amended to add training opportunities under Title III of the Job Training Partnership (JTPA) and training approved by private industry councils (PICs) under section 102 of JTPA, to those opportunities already available to eligible workers. The State agency providing reemployment services, including training, is required to insure that trade impacted workers are provided opportunities to participate in JTPA training programs that satisfy the approval criteria under section 236 of the Trade Act of 1974, if training costs are to be paid with TAA funds and/or workers wish to claim the additional 26 weeks of TRA.

i. *Cost of training.* Section 236(a) is further amended to provide that no training costs may be paid under any other Federal law when the costs of training are paid with TAA program funds; nor may TAA program funds be used to pay training costs when payment is made in part or whole under any other Federal law.

Amended Section 236(d) requires that the following conditions must be satisfied for approving and paying the cost of on-the-job training:

(1) No currently employed worker is displaced, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits;

(2) Training does not impair existing contracts for services or collective bargaining agreements;

(3) In the case of training which would be inconsistent with the terms of a collective bargaining agreement, written

concurrence must be obtained from the concerned labor organization;

(4) No other individual is on layoff from the same or any substantially equivalent job for which such eligible worker is being trained;

(5) The employer has not terminated the employment of any regular employee or otherwise reduced the workforce with the intention of filing the vacancy so created by hiring the eligible worker;

(6) The job for which the eligible worker is being training is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals;

(7) The training is not for the same occupation as that from which the worker was separated and with respect to which such worker's group was certified;

(8) The employer certifies that the employer will continue to employ the eligible worker for at least 26 weeks after completing the training, if the worker desires to continue such employment, and the employer does not have due cause to terminate the employment;

(9) The employer has not received payment under any other on-the-job training provided by such employer which failed to meet the requirements of (1) through (6) above; and

(10) The employer has not taken, at any time, any action which violated the terms of any certification described in (8) above made by the employer with respect to any other on-the-job training provided by the employer for which the Secretary has made payment.

Agreements used by the State agency in establishing on-the-job training programs with employers should be amended to reflect the above conditions.

j. *TRA payments.* Retroactive claims of eligible workers may be approved for weeks of unemployment beginning with the first week after the week which included December 18, 1985. Workers who had TRA payments terminated for weeks beginning after December 19, 1985 should be informed of the enactment of P.L. 99-272, the restoration of TRA payments, and their right to file claims for weeks of unemployment beginning subsequent to the week of December 19, 1985. (Most States will have completed this action based on prior operating instructions issued by this Department.)

Claims for weeks beginning before April 7, 1986 (or, if later, before potential claimants are notified of their potential entitlement to retroactive benefits) are not subject to the application of the Extended Benefits (EB) work test, nor to the State agency timely filing requirements. TRA claimants are subject to these requirements for weeks of unemployment beginning after the date they are notified of such requirements.

With weeks of unemployment beginning on or after March 1, 1986, TRA weekly payments are subject to a 4.3 percent reduction under Federal law.

A separate Fiscal Letter will be issued which will address all aspects of funding for TAA payments including the proper coding of claims-related activities.

7. *Actions Required.* SESAs should implement the worker adjustment assistance provisions of Title XIII of the Consolidated Omnibus Budget Reconciliation Act of 1985 immediately by taking the following actions:

(a) Inform local office staffs of the changes to the trade adjustment assistance provisions of the Trade Act of 1974.

(b) Notify all TRA claimants with existing benefit periods of the provisions in the new legislation and the potential impact on retroactive TRA payments to December 18, 1985 and future entitlement for TRA payments and other forms of trade adjustment assistance.

(c) Revise and print forms and pamphlets to reflect the new amendments to the Trade Adjustment Assistance program.

(d) Conduct staff training on changes to the program.

(d) Develop working relationships with the State JTPA agency where they do not already exist to insure that training oppportunities available under its programs will also be made available to trade impacted workers.

8. *Inquiries.* Inquiries should be directed to the appropriate regional office.

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BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 86-67; Exemption Application No. D-5847 et al.]

Grant of Individual Exemptions; Union Annuity Pension Plan, et al.

AGENCY: Penion and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transactions restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Union Annuity Pension Plan (the Plan) Located in Milwaukee, Wisconsin

[Prohibited Transaction Exemption 86-67; Exemption Application No. D-5847]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the provision of long term mortgage financing by the Plan to property owners

where such financing is to be used to retire construction loans extended by banks which are non-fiduciary parties in interest with respect to the Plan, provided that:

A. Such mortgage loan is expressly approved by a fidiciary independent of the construction lender who has authority to manage or control those Plan assets being invested;

B. The terms of each such transaction is not less favorable to the Plan than the terms generally available in an arm's-length transaction between unrelated parties; and

C. No investment management, advisory, underwriting or sales commission or similar compensation is paid to the construction lender with regard to such transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 2, 1986 at 51 FR 11367.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

[Prohibited Transaction Exemption 86-68; Application No. D-5942]

Security Pacific National Bank (the Bank) Located in Los Angeles, CA

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to (1) effective June 1, 1979, the provision by the Bank of a line of credit (the Loan) to Desert Horizons, Inc. (DH), a wholly-owned subsidiary of the Alaska Teamsters-Employer Pension Plan (the Plan); (2) effective June 1, 1979, the guarantee (the Guarantee) of the Loan by the Plan; and (3) effective October 1, 1981, the purchase by the Bank in October, 1981, of a Class C membership (the Membership) in the Desert Horizons Country Club, a wholly-owned subsidiary of DH.

The applicant was unable to notify interested persons within the time period specified in the Federal Register notice published on December 30, 1985. Interested persons were notified on March 19, 1986 and advised of their right to comment or request a hearing within 30 days from the receipt of their notification.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 30, 1985 at 50 FR 53219.

Effective Dates: The effective date of this exemption is June 1, 1979 with respect to the Loan and the Guarantee, and October 1, 1981 with respect to the purchase of the Membership.

For Further Information Contact: David Lurie of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Olmsted Medical Group, P.A. Profit Sharing Plan (the Plan) Located in Rochester, Minnesota

[Prohibited Transaction Exemption 86-69; Exemption Application No. D-6026]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the past sale by the Plan of its interest in certain real property (the Property) to Olmsted Medical Properties (the Partnership), a party in interest with respect to the Plan; (2) the extension of credit by the Plan to the Partnership; (3) the guarantee of repayment to the Plan by Olmsted Medical Group, P.A., the sponsor of the Plan, on behalf of the Partnership; and (4) the past assignment by the Plan of a ground lease with Lutheran Brotherhood, an unrelated party, to the Partnership, provided that the terms received by the Plan were not less favorable to the Plan than those obtainable in an arm's-length transaction with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 8, 1986 at 51 FR 11997.

Effective Date: The effective date of this exemption is May 21, 1985.

For Further Information Contact: Ms. Linda Shore of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Construction Industry Laborers Vacation Fund (the Vacation Fund) and the Construction Industry Laborers Welfare Fund (the Welfare Fund) Located in Jefferson City, Missouri

[Prohibited Transaction Exemption 86-70; Exemption Application No. L-6186]

Exemption

The restrictions of section 406(a) of the Act shall not apply to the transfer of uncommitted reserves by the Vacation Fund to the Welfare Fund. The Welfare Fund is a party in interest with respect to the Vacation Fund as a result of providing administrative services and office space to the Vacation Fund.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 10, 1985 at 50 FR 50365.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8194. (This is not a toll-free.)

Englund Marine Supply Co., Inc. Employees' Profit Sharing Plan, and Englund Marine Supply Co., Inc. Employees' Pension Plan (the Plans) Located in Astoria, Oregon

[Prohibited Transaction Exemption 86-71; Exemption Application Nos. D-6265 and D-6266]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed provision of a line of credit by the Plans to the Englund Marine Supply Company, the sponsor of the Plans; provided that the terms of such extension of credit are at least as favorable to the Plans as the Plans could obtain in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 8, 1986 at 51 FR 11998.

Temporary Nature of Exemption: This exemption shall be effective only for a period of five years and shall apply only to loans which are originated and repaid wtihin five years commencing on the date on which this exemption is published in the Federal Register.

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Profit-Sharing Plan & Trust Agreement of Zalutsky & Klarquist, P.C. (the Zalutsky Plan) and the Profit-Sharing Plan & Trust Agreement of Joel L. Seres, M.S., P.C. (the Seres Plan, collectively, the Plans) Located in Portland, Oregon

[Prohibited Transaction Exemption 86-72; Exemption Application Nos. D-6385 and D-6386]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of

section 4975(c)(1) (A) through (E) of the Code, shall not apply to the lease of a certain parcel of real property located at 4337–4371 S.W. Garden Home Road, Portland, Oregon, by the individually directed account of Morton H. Zalutsky (Mr. Zalutsky) in the Zalutsky Plan and the individually directed account of Joel L. Seres, M.D. (Dr. Seres) in the Seres Plan to Mr. Zalutsky, a party in interest with respect to the Zalutsky Plan and Dr. Seres, a disqualified person with respect to the Seres Plan,[1] provided that the terms of the transaction are at least as favorable to the Plans as those the Plans could obtain in a similar transaction with an unrelated party.

Effective Date: The exemption will be effective December 31, 1985.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 8, 1986 at 51 FR 11999.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523–8196. (This is not a toll-free number.)

The Birr, Wilson & Co., Inc. Employee's Profit Sharing Plan and The Birr, Wilson & Co., Inc. Financial Security Plan for Account Executives (collectively, the Plans) Located in San Francisco, CA

[Prohibited Transaction Exemption 86–73; Application Nos. D–6477 and D–6478]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the exercise of stock options (the Options) by the Plans to purchase from Birr, Wilson & Co., (the Employer) stock in unrelated companies; and (2) the potential repurchase of the Options from the Plans by the Employer, for a period of five years from the date of this exemption, provided that the terms and conditions of the transaction are at least as favorable to the Plans as those obtainable in similar transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 28, 1986 at 51 FR 7149.

Temporary Nature of Exemption. This exemption will be temporary in nature and will expire 5 years from the date of this grant with respect to the exercise or repurchase of the Options.

Written Comment. The Department received one written comment from a former participant of one of the Plans. The comment did not raise any issues relating to the transactions covered by the proposed exemption.

Accordingly, after consideration of the entire record, the Department has decided to grant the exemption as proposed.

For Further Information Contact: David Lurie of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Metropolitan Bank of Lima, Ohio Profit Sharing Trust, and Metropolitan Bank of Lima, Ohio Employees' Pension Plan (the Plans) Located in Lima, Ohio

[Prohibited Transaction Exemption 86–74; Exemption Application Nos. D–6547 and D–6548]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b) (2) opf the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) (1) (A) through (E) of the Code, shall not apply to (1) a lease by the Plans (the Lease) of certain real property the (the Property) to the Metropolitan Bank of Lima, Ohio (the Employer), the sponsor of the Plans; and (2) the Employer's potential cash purchase of the Property from the plans pursuant to a provision in the Lease; provided that all terms of such transactions are at least as favorable to the Plans as the Plans could obtain in arm's-length transactions with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 8, 1986 at 51 FR 12001.

Effective Date: This exemption is effective as of December 1, 1985.

For Further Information Contact: Mr. Ronald Willett of the Department, Telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary of other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and respresentations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 3rd day of June, 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86–13013 Filed 6–9–86; 8:45 am]

BILLING CODE 4510–29–M

[1] Because Dr. Seres is the sole shareholder in Joel L. Seres, P.C. and is the only participant in the Seres Plan, there is no jurisdiction under Title II of the Act by reason of section 4975 of the Code. The exemption with respect to the Seres Plan, would exempt only the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Companies Section) to the National Council on the Arts will be held on June 23–27, 1986, from 9:00 a.m. to 6:00 p.m., in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

If time permits, a portion of this meeting will be open to the public on June 27, from 4:30 p.m. to 6:00 p.m., for a discussion of Policy and Guidelines.

The remaining sessions of this meeting on June 23–26, 1986, from 9:00

a.m.—6:00 p.m.; and on June 27, 1986, from 9:00 a.m.—4:30 p.m., are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given confidence with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

June 4, 1986.

[FR Doc. 86-13067 Filed 6-9-86; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (National Resources Section) to the National Council on the Art will be held on June 25, 1986, from 9:00 a.m.-5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW. Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

June 4, 1986.

[FR Doc. 86-13068 Filed 6-10-86; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Overview Section) to the National Council on the Arts will be held on June 26, 1986, from 9:00 a.m. to 6:00 p.m., and on June 27, 1986, from 9:00 a.m.-5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

A portion of this meeting will be open to the public on June 26, from 9:00 a.m. to 4:45 p.m., and on June 27, from 9:00 a.m.-5:30 p.m., for discussion of the Five-Year Planning Document, Guidelines and 1986 and 1987 Planning Issues.

The remaining sessions of this meeting on June 26, from 4:45 p.m. to 6:00 p.m. are for the purpose of Panel discussion and development of confidential materials and projections regarding FY 1987 and future year budget levels to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552(b) of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

June 4, 1986.

[FR Doc. 86-13069 Filed 6-9-86; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

Arkansas Power and Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. NPF-6 issued to Arkansas Power and Light Company (the licensee), for operation of Arkansas Nuclear One, Unit 2, located in Pope County, Arkansas.

The proposed amendment would revise Surveillance Requirement 4.8.2.3.1.a.2 of the ANO-2 Technical Specifications to allow replacement of a bank of the station batteries with a new battery bank during the upcoming 5th refueling outage in accordance with the licensee's application for amendment dated April 1, 1986. The existing battery bank, which is rated at 1350 A-hr for an 8-hour discharge rate with the discharge voltage of 105 volts, has 60 cells while the new battery bank, which is rated at a higher electrical storage capacity of 2045 A-hr for an 8-hour discharge rate with the discharge voltage of 105 volts, will have 58 cells. As a result of the replacement, the required total battery terminal voltage for the new 58 cell battery bank on float charge will be 124.7 volts while the required float voltage for the remaining 60 cell battery bank will be maintained at 129 volts. Float charge is a method of maintaining a battery in a charged condition by continuous long-term constant voltage charging at a level sufficient to balance self-discharge. In addition, an equalizing charge is given periodically to a battery to restore all cells to a fully charged condition using a charging voltage higher than the normal float voltage since a cell in prolonged under-charge condition will lose its electrical storage capacity permanently. The high charging voltage associated with an equalizing charge operation is known to cause premature failures of normally energized D.C. equipment.

The proposed change would yield a lower equalizing voltage for the new 58 cell battery bank at which there would be no adverse effect on the D.C. equipment while maintaining the required discharge voltage of 105 volts. The remaining 60 cell battery bank would be replaced with a 58 cell battery bank during the 6th refueling outage based on the fact that the high voltage

problem is not severe enough to require both battery banks to be replaced during the upcoming 5th refueling outage and that there is limited time and resources available to effect the replacement of both battery banks during the upcoming outage.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

A discussion of these standards as they relate to this amendment follows:

Criterion 1

The proposed change would not increase the probability or consequences of an accident previously evaluated since the proposed change would not affect the ability of the station batteries to perform their design function based on the fact that there would be no reduction in their electrical storage capacity and discharge voltages. The proposed change is intended to reduce premature failures of normally energized D.C. equipment by reducing the voltages associated battery charging operations for a bank of the station batteries.

Criterion 2

The proposed change would not create the possibility of a new or different kind of accident from any previously analyzed since it would not introduce new systems, modes of operation, failure modes or other plant perturbations. It would only replace a bank of the station batteries without affecting its ability to perform its design function.

Criterion 3

The proposed change would not involve a significant reduction in the margin of safety since the ability of the station batteries to perform their design function would be maintained. In fact, the proposed change would increase the electrical storage capacity of a bank of the station batteries and reduce adverse effects of high voltages on normally energized D.C. equipment.

Therefore, since the application for amendment appears to satisfy the criteria specified in 10 CFR 50.92, the NRC staff proposed to determine that the requested change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By July 9, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of ther subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first perhearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or petition for leave to intervene must be filed with the

Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Dated at Bethesda, Maryland, this 4th day of June 1986.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, PWR Project Directorate No. 7 Division of PWR Licensing-B.

[FR Doc. 86-13053 Filed 6-9-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-05985, License No. 37-00276-25, EA 85-34]

Pittsburgh Testing Laboratory; Order Imposing Civil Monetary Penalties

Pittsburgh Testing Laboratory, 850 Poplar Street, Pittsburgh, Pennsylvania (the "licensee") is the holder of specific byproduct material License No. 37-00276-25 (the "license") issued by the Nuclear Regulatory Commission (the "Commission" or the "NRC") pursuant to 10 CFR Parts 30 and 34. The license, which authorizes the use of byproduct material for the conduct of industrial radiography and related activities, was issued on September 13, 1965, was most recently renewed on May 26, 1981, and is due to expire on May 31, 1986. A license renewal application has been received from the licensee and the license will remain in effect after May 31, 1986 pending NRC review of the renewal application.

II

On August 27 and 29-31, 1984, an NRC safety inspection of the licensee's activities under the license was conducted at the licensee's district facility in Cleveland, Ohio and at the licensee's corporate office in Pittsburgh, Pennsylvania. Subsequently, an investigation was conducted by the NRC Office of Investigations. As a result of the inspection and investigation, violations of NRC requirements were identified. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated April 7, 1986. The Notice states t he nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the proposed civil penalties for each violation. Two letters dated May 6, 1986 in response to the Notice of Violation and Proposed Imposition of Civil Penalties were received from the licensee.

III

After consideration of the answers received, and the statements of fact, explanations and arguments for remission or mitigation of the proposed civil penalties contained therein, the Director, Office of Inspection and Enforcement, has determined, as set forth in the Appendix to this Order, that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, Pub. L. 96-295, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the full amount of Fifty Eight Thousand Dollars ($58,000) within thirty days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, DC 20555, and to the Regional Administrator, NRC Region I, at 631 Park Avenue, King of Prussia, Pennsylvania 19406. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall become effective without further proceedings and, if payment has not been made in accordance with section IV of this Order by that time, the matter may be referred to the Attorney General for collection.

In the event th e licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties, and

(b) Whether , on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 2nd day of June 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

In the licensee's two responses, dated May 6, 1986, to the Notice of Violation and Proposed Imposition of Civil Penalties, dated April 7, 1986, the licensee does not deny the occurrence of the violations and provides a description of its corrective actions, but requests that the civil penalties amount be reduced for Violation I.A, and that Violations I.B and I.C be combined and assessed a single civil penalty. Provided below are (1) a restatement of each violation assessed a civil penalty, as set forth in Section I of the April 7 Notice, (2) a summary of the licensee's responses, and (3) the NRC evaluation of the licensee's responses.

Restatement of Violations

A. 10 CFR 34.31(a) requires that no individual act as a radiographer until that individual has demonstrated his understanding of the instructions which he has received regarding the subjects covered in that paragraph and has successfully completed a written test and a field examination on the subjects covered.

Contrary to the above, on February 21 and 24 and March 1, 2, 5, 7 and 9, 1984, one

individual from the Cleveland, Ohio office, and on August 1, 1984, another individual from the Cleveland, Ohio office, were knowingly permitted to act as radiographers prior to completing the required demonstration of their understanding of the subjects outlined in 10 CFR 34.31(a).

These are Severity Level I violations (Supplement VI).

Cummulative Civil Penalties—$20,000, assessed $10,000 for each uncertified individual.

B. On August 27, 1984, the District Manager/Radiation Safety Officer of the PTL Cleveland, Ohio, facility told NRC inspectors that a certain individual had only performed the work of a trainee and had not operated a radiography exposure device on August 1, 1984.

Contrary to section 186 of the Atomic Energy Act of 1954, as amended, this statement constitutes a deliberate material false statement. The statement was false because the District Manager/Radiation Safety Officer had, in fact, assigned the individual to perform radiography on August 1, 1984, and the individual worked as a radiographer and operated the radiography device at Warren, Ohio on August 1, 1984. The statement was material in that had the NRC known that the District Manager had knowingly sent an unqualified and uncertified individual to perform radiography, the NRC would have taken prompt enforcement action to prevent recurrence. The statement was deliberate in that the District Manager knew the statement was false when he made it, and subsequently admitted this during an interview conducted under oath with an NRC investigator on May 15, 1985.

This material false statement by the District Manager of the Cleveland facility constitutes a Severity Level I violation (Supplement VII).

Civil Penalty—$10,000.

C. On August 27, 1984, the District Manager/Radiation Safety Officer of the PTL Cleveland, Ohio facility told NRC inspectors that no radiography had ever been performed in the Cleveland, Ohio facility.

Contrary to section 186 of the Atomic Energy Act of 1954, as amended, this statement constitutes a deliberate material false statement. The statement was false because radiography was conducted at the Cleveland facility in February and March 1984. The statement was material because had the NRC been informed of the true situation, enforcement action in the form of a Notice of Violation would have been taken because, at the time the radiography occurred, surveys had not been performed to determine radiation levels that might have existed in unrestricted areas. The statement was deliberate in that the District Manager was aware at the time of the statement that radiography had been performed at the Cleveland facility.

This material fales statement by the District Manager of the PTL Cleveland facility constitutes a Severity Level I Violation (Supplement VII).

Civil Penalty—$10,000.

D. During an enforcement conference conducted on February 26, 1985 at the NRC Region I office in King of Prussia, Pennsylvania, the PTL corporate Vice President stated, on at least three occasions, that a certain unqualified individual had not performed radiography on August 1, 1984. Further, in a letter from the licensee's President to the NRC dated February 25, 1985, prepared by the corporate Vice President and hand delivered at the enforcement conference, PTL informed the NRC that on August 1, 1984, "Because of inability to control access to the work area, no radiography was performed" at Warren, Ohio by the unqualified individual.

Contrary to section 186 of the Atomic Energy Act of 1954, as amended, the statement made at the enforcement conference and the statement made in the February 25, 1985 letter to the NCR constitute material false statements made in careless desregard of the truth. The statements were false because the subject individual worked as a radiographer and operated the radiography device on August 1, 1984 at Warren, Ohio. The statements were material in that had the NRC known that the District Manager knowingly sent an unqualified and uncertified individual to perform radiography, the NRC would have taken prompt enforcement action to prevent recurrence. The statements were made at a minimum in careless disregard of the truth in that the Vice President had reviewed, prior to preparing the letter and making the statements, the Radiation Survey Form (RR-3) prepared by the unqualified individual on August 1, 1984, and this form indicated a radiation level of 0.25 mrem/hr at one position, indicating that radiography was performed on August 1, 1984. Further, the corporate Vice President indicated that he had never known a Form RR-3 to have been completed without radiography having been performed.

The statement made at the enforcement conference and the statement made in the February 25, 1985 letter represent a material false statement and constitute a Severity Level II violation (Supplement VII).

Civil Penalty—$8,000.

E. 10 CFR 34.31(a) requires that no licensee permit any individual to act as a radiographer until that individual has been instructed in the subjects outlined in Appendix A of Part 34 and demonstrated understanding of the instructions by successful completion of a written test and field instruction on the subjects covered. 10 CFR 34.31(c) requires that records of the above training be maintained for three years.

Contrary to the above, although an individual was permitted to act as a radiographer in Ravenna, Ohio on seven occasions in February and March 1984 and that individual had not been instructed in the subjects outlined in Appendix A of Part 34, a record dated March 19, 1984 was improperly prepared by the District Manager/Radiation Safety Officer of the Cleveland office to indicate that the required training had been given.

This falsification of records by the District Manager/Radiation Safety Officer constitutes a Severity Level I violation (Supplement VII).

Civil Penalty—$10,000

Summary of Licensee Response

The licensee does not deny the occurrence of the violations assessed civil penalties, but requests a review of the monetary assessment. Specifically, the licensee states that Violation I.A, which was classified at Severity Level I and involved deliberate use by management of a technically unqualified person, should be classified as Severity Level III rather than at Severity Level I. Further, the licensee claims that Violations I.B and I.C, which involved two separate material false statements by the then District Manager of the Cleveland, Ohio facility, were uttered during the same interview and should be classified as a single violation and assessed a single civil penalty. The licenseee states further that they do not ask for a review of the civil penalties for Violations I.D and I.E.

NRC Evaluation of Licensee Response

With regard to Violation I.A, the NRC acknowledges that the performance of licensed activities by a technically unqualified individual would normally be classified at Severity Level III in accordance with either section C.10 of Supplement IV or section C.4 of Supplement VI of 10 CFR Part 2, Appendix C (NRC Enforcement Policy). However, section III of the NRC Enforcement Policy allows the Severity Level of a violation to be increased if the violation is willful, and in determining the specific level, the Policy states that the NRC will consider several factors, including the position of the person involved in the violation, and the significance of the underlying violation. In this case, since (1) the violation was deliberately directed by the senior manager of the Cleveland facility, and (2) the unqualified individual was used for radiography, a significant licensed activity where misuse could pose a serious threat to the individual, other employees, and the public, the NRC has determined that an increase in the severity of the violation to Severity Level I is appropriate and is consistent with the Enforcement Policy

With regard to Violations I.B and I.C, the NRC contends that material false statements made by the then senior manager of the Cleveland facility involved two separate, independent licensed activities, specifically, (1) whether an unqualified individual had performed radiography at a specific field site, and (2) whether radiography had ever been performed by anyone at the Cleveland facility. Accordingly, each material false statement constitutes a separate violation, and assessment of a separate civil penalty for each violation is appropriate, and is consistent with the Enforcement Policy.

NRC Conclusion

After consideration of the licensee's statements, explanations, and arguments, the NRC maintains that the licensee has not provided an adequate basis for reduction of the civil penalties. Accordingly, civil penalties in the amount of $58,000 are imposed.

[FR Doc. 86-13054 Filed 6-9-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-09588, License No. 08-03604-04, and EA 86-43]

Washington Hospital Center, Confirmatory Order Modifying License

I

Washington Hospital Center, Washington, DC (licensee or hospital) is the holder of specific byproduct material License No. 08-03604-04 issued by the Nuclear Regulatory Commission (the Commission or the NRC) pursuant to 10 CFR Parts 30 and 35. The teletherapy license, which authorizes the use of cobalt-60 sources in a teletherapy unit for the treatment of humans, was originally issued on July 17, 1973, was most recently renewed on February 27, 1984, and is due to expire on February 28, 1989.

II

On February 10-11, 1986, an NRC inspection of License No. 08-03604-04 was conducted at the hospital to review the circumstances associated with a misadministration which occurred at the hospital on February 7, 1986. The misadministration, which was identified by the licensee and reported to the NRC, involved the administering of a cobalt-60 teletherapy treatment of 150 rads to a patient who was not the patient referred by the attending physician to receive such treatment.

The circumstances surrounding the medical misadministration incident are as follows. On February 6, 1986, a radiation therapy treatment was ordered for a patient in the Renal Transplant Unit of the hospital by the patient's attending physician. After the physician signed the order in the patient's chart requesting the treatment, the chart was transferred to the clerk for that hospital unit so that the order could be entered into the computer used to both schedule treatments and notify the treating departments of the scheduled treatment. The clerk, by use of a light pen on the screen, erroneously entered the order for the radiation therapy into the computer file for a patient whose name was listed adjacent to the name of the intended patient.

On the morning of February 7, 1986, the Radiation Therapy Department, after reviewing the computer printout listing those patients scheduled for radiation therapy, contacted the respective units in the hospital so that the patients could be brought to the department for treatment. Subsequently, the incorrect patient was brought from the Renal Transplant Unit to the Radiation Therapy Department where she was examined by a radiation therapy physician authorized by the license to use licensed materials for such treatment. In accordance with hospital procedures, the patient's chart accompanied her. Although the radiation therapy physician noted that the chart did not contain an order for radiation treatment, he decided to approve administration of the treatment to the patient based on the computer printout without first consulting with either the patient's attending physician or the nursing staff on the patient's unit, contrary to hospital policy. As a consequence, this patient received an unnecessary and unplanned administration of 150 rads of radiation.

III

These events demonstrate that serious errors can occur in the absence of (1) adequate controls over administration of radiation treatments and (2) the proper consultation by the NRC authorized user with a patient's attending physician prior to the use of licensed material for treatment of the patient. On February 11, 1986 Region I issued a Confirmatory Action Letter documenting commitments made by the licensee to make improvements in its program to prevent such misadministrations in the future. These commitments were also discussed at an enforcement conference on February 21, 1986. Because of the importance of these commitments to the safe and appropriate use of licensed material, I have determined that the commitments set forth in the Confirmatory Action Letter should be incorporated into the hospital license as required by this Order.

IV

Accordingly, pursuant to sections 81 and 161b of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and Part 30, it is hereby ordered that the licensee shall:

A. Assure that an authorized physician user listed in Condition 12 of License Number 08-03604-04 reviews every patient chart prior to the initiation of cobalt-60 teletherapy treatment and confirms that the treatment has been requested and is appropriate.

B. Require consultation regarding the planned treatment between an authorized user and the referring physician or the Chief Resident prior to the initial treatment of each teletherapy patient.

V

The licensee or any other person adversely affected by this Order may request a hearing within 30 days after issuance of this Order. Any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the date of this Order. Copies shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406. If a hearing is requested, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order shall be sustained.

This Order shall become effective upon expiration of the time during which a hearing may be requested or, in the event a hearing is requested, on the date specified in the Order issued following further proceedings on this Order.

Dated at Bethesda, Maryland, this 29th day of May 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-13055 Filed 6-9-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Modification of Increased Duties on Certain Footwear

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice modifies provisions of the Tariff Schedules of the United States that were created by Proclamation 5448 of March 16, 1986, and that provided for increased rates of duty applicable to imports of certain leather and leather footwear the product of Japan. The article description of item 945.76 in the Appendix to the Tariff Schedules of the United States imposing such increased duties on the subject footwear from Japan is being changed to reflect more clearly the understanding reached with Japan.

EFFECTIVE DATE: This modification shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Amelia Porges, Assistant General Counsel, Office of the U.S. Trade Representative, 600 17th Street NW., Washington, DC 20506; telephone (202) 395-7305.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5448 of March 16, 1986 (51 FR 9435), imposed increased duties on two categories of articles the product of Japan: Certain bovine and equine leather, and certain footwear. These actions were in response to restrictions imposed by Japan on U.S. exports, and reflected the President's Determination under Section 301 of the Trade Act of 1974 (19 U.S.C. 2411) signed March 16, 1986 (51 FR 9437) to accept compensation from Japan and also to increase such duties. Proclamation 5448 authorizes the U.S. Trade Representative to suspend, modify, or terminate the increase in U.S. import duties on any of the subject articles, upon publication of his determination that such suspension, modification, or termination is justified by further actions taken by Japan, is appropriate to carry out the understanding between the United States and Japan regarding this matter, or is otherwise appropriate, taking into account relevant domestic production and employment in the United States.

In conformity with the above, I have determined that it is appropriate, in order to reflect more accurately the understanding reached between the United States and Japan, to modify the article description in item 945.76, part 2B of the Appendix of the Tariff Schedules of the United States to read as follows:

"Footwear with outer soles of leather and uppers wholly or in part of leather, and footwear with outer soles of rubber or plastics and uppers having an exterior surface area predominantly of leather, the foregoing provided for in part 1A of schedule 7, except (a) slip-on footwear of a type not suitable for outdoor use, without backs or backstraps, having outer soles with a thickness of less than 5 millimeters and with less than 20 millimeters difference between the thickness of the bottom at the ball of the foot and at the heel, and (b) footwear which is designed for a sporting activity and has, or has provision for, attached spikes, sprigs, stops, clips, bars, or the like, and skating boots, ski-boots and cross-country ski footwear, wrestling boots, boxing boots, and cycling shoes".

Alan Woods,

Acting United States Trade Representative.

[FR Doc. 86-13040 Filed 6-9-86; 8:45 am]

BILLING CODE 3190-01-M

Petition Under Section 301 on Access to the Legal Services Market in Japan; Decision Not To Initiate an Investigation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

The United States Trade Representative has determined not to initiate an investigation at this time under section 301 of the Trade Act of 1974 (19 U.S.C. 2411) with respect to a petition filed April 11, 1986 concerning access to the legal services market in Japan. This determination is deemed appropriate in view of recent progress in negotiations on access by foreign lawyers to the legal services market in Japan, and the recent passage of legislation partially liberalizing practice rules for foreign legal consultants in Japan. In view of our continuing efforts to work toward devising a system that provides foreign lawyers with an appropriate degree of access to the legal services market in Japan, this determination is made without prejudice to future petitions on this matter.

FOR FURTHER INFORMATION CONTACT: Amelia Porges, Assistant General Counsel, Office of the U.S. Trade Representative, 600 17th St. NW., Washington, DC 20506; telephone (202) 395-7305.

Alan Woods,

Acting United States Trade Representative.

[FR Doc. 86-13041 Filed 6-9-86; 8:45 am]

BILLING CODE 3190-01-M

POSTAL RATE COMMISSION

[Docket No. A86-19]

Given, West Virginia 25245; Cheryl Painter, et al., Petitioner; Notice and Order Accepting Appeal and Establishing Procedural Schedule

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; Bonnie Guiton; Patti Birge Tyson.

Issued: June 3, 1986.

Docket Number: A86-19.

Name of affected post office: Given, West Virginia 25245.

Name(s) of petitioner(s): Cheryl Painter, *et al.*

Type of determination: Closing.

Date of filing of initial appeal papers: May 29, 1986.

Categories of issues apparently raised:

1. Effect on the community. [39 U.S.C. 404(b)(2)(A)]

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before June 13, 1986.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix—Docket No. A86-19, Given, West Virginia 25245

May 29, 1986—Filing of Petition.

June 3, 1986—Notice and Order of Filing of Appeal.

June 23, 1986—Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

July 3, 1986—Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)].

July 23, 1986—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].

August 7, 1986—Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 301.115(d)].

August 14, 1986—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].

September 26, 1986—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 86-12997 Filed 6-9-86; 8:45 am]

BILLING CODE 7715-01-M

[Docket No. A86-18]

Owanka, SD 57767; Edgar Simon, et al., Petitioner; Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued: June 3, 1986.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; Bonnie Guiton; Patti Birge Tyson.

Docket number: A86-18.

Name of affected post office: Owanka, South Dakota 57767.

Name(s) of Petitioner(s): Edgar Simon, et al.

Type of determination: Closing.

Date of filing of initial appeal papers: May 28, 1986.

Categories of issues apparently raised:

1. Effect on the community. [39 U.S.C. 404(b)(2)(A)].

2. Effect on postal services. [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Sercice memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before June 12, 1986.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

May 28, 1986, Filing of Petition.

June 3, 1986, Notice and Order of Filing of Appeal.

June 23, 1986, Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

July 2, 1986, Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b).

July 22, 1986, Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].

August 6, 1986, Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 301.115(d)].

August 13, 1986, Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is necessary addition to the written filings [*see* 39 CFR 3001.116].

September 25, 1986, Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 86-12996 Filed 6-9-86; 8:45 am]

BILLING CODE 7715-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meeting

Notice is hereby given of meetings of the Prospective Payment Assessment Commission on June 24-25, 1986, at the Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC.

The Subcommittee on Diagnostic and Therapeutic Practices will meet in the executive room, and the Subcommittee on Hospital Productivity and Cost-Effectiveness will meet in the congressional room. Both subcommittees will convene at 9 o'clock a.m. on June 24, 1986.

The full Commission will convene at 1:30 p.m. in the diplomat room June 24, 1986.

The Subcommittee on Data Development and Research will convene in the Hampton room at 9 o'clock a.m. on June 25, 1986.

All meetings will be open to the public.

Donald A. Young,

Executive Director.

[FR Doc. 86-13161 Filed 6-9-86; 8:45 am]

BILLING CODE 6820-BW-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23289; File No. SR-CBOE-86-12]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc.

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 May 15, 1986 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. Text of the Proposed Rule Change

From Monday, June 2, 1986, through Monday, September 1, 1986, the Exchange will not charge any currency options transaction fees or currency options floor charges; the Exchange reserves the right to begin charging currency options transaction fees for public customer and firm proprietary orders before September 1, 1986. In addition, the Exchange will not collect any dues from currency options rights or permit holders and will not collect dues in connection with currency options memberships until September 1, 1986.

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 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 this proposed rule change is to encourage the trading of foreign currency option contracts as part of a currency options permit and incentive program, which is described in a separate filing (SR-CBOE-86-13). The statutory basis for this proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act), in that it is designed to facilitate transactions in foreign currency options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change will not impose a 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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or apropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written 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 be 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 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 (July 1, 1986).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 2, 1986.

Shirley E. Hollis

Acting Secretary.

[FR Doc. 86-13020 Filed 6-9-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15127; File No. 812-6349]

Delaware Group Government Fund, Inc.; Application Permitting Quarterly Distributions of Long-Term Capital Gains

June 3, 1986.

Notice is hereby given that Delaware Group Government Fund, Inc. (the "Applicant"), Ten Penn Center Plaza, Philadelphia, Pennsylvania 19103, a diversified open-end management investment company registered under the Investment Company Act of 1940 ("Act"), filed on application on April 16, 1986, for an order pursuant to section 6(c) of the Act exempting the Applicant from section 19(b) of the Act and Rule 19b-1 thereunder to permit the Applicant to make quarterly distributions of long-term capital gains from certain options transactions. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions thereof.

According to the application, Applicant is a series investment company designed for investors who seek a high current return with frequent dividend distributions. Applicant currently offers shares in two series, the U.S. Government Series and the GNMA Series. Applicant states that both series pursue their investment objectives by investing in U.S. Government securities, as described in the application. Applicant also states that each series may write covered call options and secured and purchase put options, and enter into closing purchase and sale transactions with respect to certain of such options. Applicant further states that it will not engage in option writing strategies for speculative purposes. Applicant is also authorized to use other investment techniques, such as lending certain U.S. Government securities and entering into repurchase agreements with sellers of such securities.

Applicant represents that it pays dividends from net investment income monthly and distributions of net capital gains from options transactions and net short-term capital gains from other sources quarterly. Applicant also represents that distributions of any net long-term capital gains realized on sales of investments during a fiscal year are currently distributed annually during the quarter following the close of the fiscal year.

Applicant states the under the 1984 amendments to section 1256 of the Internal Revenue Code ("Section 1256"), 60% of the gain or loss recognized by the Applicant with respect to certain options is now treated as long-term capital gain or loss. Applicant believes that it is desirable to apply that tax treatment to their quarterly distributions of gains from option transactions in order to benefit its shareholders. Applicant notes that Section 1256 was amended to eliminate certain tax abuses relating to the realization of short-term capital losses from options transactions and that there is no evidence that Congress intended that amendment to limit the frequency with which registered investment companies may distribute capital gains from options transactions. Accordingly, the Applicant believes that, by recognizing 60% of the gain from options transactions as long-term capital gain, it will be distributing long-term capital gain more than once a year, which is in violation of section 19(b) of the Act and Rule 19b-1 thereunder.

Applicant asserts that none of the purposes of section 19(b) of the Act and Rule 19b-1 will be served by a strict application of these provisions to its proposed quarterly distribution of the capital gains generated by certain options transactions, 60% of which are now treated as long-term capital gains under section 1256. Applicant represents that it will also clearly distinguish the source of any such capital gains distribution in notices to its shareholder to avoid confusion.

Applicant further asserts that section 19(b) of the Act and Rule 19b-1 were also devised to stop investment companies from churning their portfolios in contravention of their goal of long-term capital appreciation. Applicant submits that the recharacterization of 60% of the capital gain from options transactions as long-term capital gain by section 1256 is not expected to affect the investment decisions of distribution practices of the Applicant, which has an investment objective of high current return, not long-term capital appreciation. Applicant also submits that its proposed quarterly distribution of long-term capital gains from options transactions will not increase administrative expenses because the Applicant already proposed to make quarterly distributions of short-term capital gains.

Applicant states that if it were unable to designate the appropriate part of each quarterly distribution of gains from options transactions as long-term capital gain, the Applicant could designate its final distribution of gains with respect to a fiscal year, which is made shortly after the close of the fiscal year, as being the distribution of long-term capital gains. Applicant believes that this approach would be disadvantageous to the Applicant's shareholders because a portion of the long-term capital gain realized on certain options transactions may not be designated as such if the portion exceeds the amount of the final distribution and because this method of distribution will not spread the benefit of the lower capital gains tax rate to persons who are shareholders at various points during the year. Applicant concludes that granting the requested exemption to enable Applicant to make quarterly distributions of long-term capital gains from certain options transactions would be appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 27, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of the interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or,

in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13057 Filed 6-9-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15131; File No. 812-6279]

International Investors Inc.; Notice of Application

June 4, 1986.

Notice is hereby given that International Investors Incorporated ("International Investors"), Van Eck Funds ("Trust") and Van Eck Securities Corporation ("VESC"); collectively, "Applicants"), 122 East 42nd Street, New York, New York 10168, filed an application on January 10, 1986, and an amendment thereto on May 9, 1986, requesting an order pursuant to section 11(a) of the Investment Company Act of 1940 ("Act") approving certain proposed offers of exchange on a basis other than relative net asset values of the shares involved in the exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below and to the Act for the complete text of the applicable provisions thereof.

Applicants state that International Investors and the Trust are registered as open-end investment companies under the Act. The Trust currently has three series: World Trends Fund, Gold/Resources Fund and U.S. Government Money Fund. VESC is the principal underwriter of shares of International Investors and each series of the Trust (together, "Funds"). Applicants state that shares of U.S. Government Money Fund are sold on a continuing basis at their net asset value without a sales charge. Shares of International Investors, Gold/Resources Fund and World Trends Fund ("load funds") are sold on a continuing basis at their respective net asset values plus a sales charge ranging from 0.5% to 8.5% of the offering price in the case of International Investors and from 0.5% to 7.5% of the public offering price in the case of World Trends Fund and Gold/Resources Fund.

Applicants propose to make offers of exchange pursuant to the following plan: (1) Shares of the Trust's World Trends Funds or Gold/Resources Fund, not acquired pursuant to the exchange plan, which have been held for at least 30 days ("shares" as used in this paragraph, includes shares acquired by reinvestment of dividends and distributions), may be exchanged without a sales charge for shares of International Investors at their net asset values per share; (2) shares of International Investors may be exchanged for shares of the Trust's Gold/Resources Fund or World Trends Fund without a sales charge at their net asset values per share; (3) shares of the Trust's Gold/Resources Fund, or World Trends Fund, may be exchanged without a sales charge for shares of the other funds of the Trust at their net asset values per share; (4) shares of the Trust's U.S. Government Money Fund which were not acquired by exchange from International Investors or the Trust's Gold/Resources Fund or World Trends Fund (i.e. shares initially purchased directly from U.S. Government Money Fund with no sales charge), may be exchanged for shares of International Investors or the Trust's Gold/Resources Fund or World Trends Fund based on the relative net asset values per share plus the sales charge applicable to the shares of the successor fund; (5)d shares of the Trust's U.S. Government Money Fund which were acquired pursuant to an exchange from International Investors or the Trust's Gold/Resources Fund or World Trends Fund, may be exchanged for shares of International Investors or the Trust's Gold/Resources Fund or World Trends Fund without a sales charge at their net asset values per share. Applicants request request that the order also apply to any additional series of the Trust for which VESC serves as principal underwriter, so long as any such additional series have the same sales charges and participate in the exchange plan on the same terms as the existing series of the Trust.

Applicants submit that the above-described exchange plan is consistent with all provisions of the Act, except for the exchange privilege described in item (4), since all of the permitted exchanges are on the basis of the respective net asset values of the funds next determined without a sales charge. However, on exchanges of shares out of the Trust's U.S. Government Money Fund which were not acquired by previous exchange from International Investors or the Trust's Gold/Resources Fund or World Trends Fund, the exchange will be at net asset value plus the sales charge applicable to the shares of the successor fund. Any such exchange offer at other than net asset value must, Applicants accede, be submitted to the Commission for its approval under section 11(a) of the Act.

Applicants assert that the proposed exchange plan is fair and equitable to shareholders of International Investors and the Trust while at the same time giving shareholders of U.S. Government Money Fund desirable flexibility in their financial planning. Applicants note that if the full sales load were not charged on exchanges of shares of U.S. Government Money Fund, an exchanging shareholder would be inequitably benefited because he could easily avoid sales charges by first purchasing shares of U.S. Government Money Fund with no sales charge and subsequently switching to one of the funds with a sales charge. The financial incentives to sales representatives to recommend exchanges out of the U.S. Government Money Fund are minimal since shares acquired pursuant to an exchange from a load fund, may again be exchanged for shares of any of the other load funds at net asset value without paying the sales charge of the successor fund (i.e. the shareholder will be "credited" for the sales charge previously paid on such shares). Applicants state that, although there is no present intention to do so, each of the funds have reserved the right to charge a fee of not more than $5.00 per exchange payable to the fund or establish a limit on the number and amount of exchanges made pursuant to the exchange plan.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 25, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13058 Filed 6-9-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15130: File No. 812-6368]

Mitsubishi Bank (Panama) S.A; Notice of Application

June 4, 1986.

Notice is hereby given that Mitsubishi Bank (Panama) S.A. ("Applicant"), c/o Peter Figdor, Esq., Wender Murase & White, 400 Park Avenue, New York, New York 10022, filed an application on April 30, 1986 for an order of the Commission pursuant to section 6(c) of the Investment Company Act so that it may make public offerings of U.S. dollar-denominated certificates of deposit and other debt securities ("Securities") in the United States. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the provision referred to herein and in the application.

According to the application, Applicant is a Panamanian banking corporation organized pursuant to Law 32 of 1927 ("Law 32") and licensed under Cabinet Decree No. 238 of July 2, 1970 ("Decree 238"), that commenced operations as a bank on May 26, 1983. Applicant states that all of its outstanding capital stock cuurently consisting of 50,000 shares of common stock, is owned by Mitsubishi Bank, Limited ("Mitsubishi"). Applicant offers international banking services through its head office in Panama, including: short and medium term commercial lending; deposit-taking; investing in commercial paper, bank instruments and government obligations; discounting trade bills; issuing letters of credit; and foreign exchange trading. As of December 31, 1984, Applicant's total assets were U.S. $39,072,634.96, with authorized capital stock consisting of 100,000 shares of common stock having a par value of U.S. $100.00 per share, and paid up capital of U.S. $5,000,000.

The Applicant represents that, as a Panamanian bank holding an international banking license under Decree 238, various aspects of its business, including permissible powers and lending authority, are subject to regulation. The Nation Banking Commission of the Republic of Panama ("Banking commission") is responsible generally for the administration of Decree 238 and more particularly for the day-to-day regulation of Panamanian banks to ensure compliance with Decree 238. Each Panamanian bank is required to file with the Banking Commission, and to publish in summary form, annual statements in prescribed form comprised of statements of assets and liabilities, income, appropriations for contingencies and changes in shareholders' equity, together with a report of the bank's auditors thereon. The Banking Commission is permitted to examine the Applicant as often as it is deemed necessary or expedient (at least once every two years), and has the right of access to Applicant's books and accounts. Also, the Banking Commission is required to appoint an intervenor to supervise the business of an insolvent Panamanian bank and take such actions as may be necessary to protect the bank's creditors and depositors. In appropriate circumstances, the Banking Commission may request the judicial dissolution of an insolvent Panamanian bank.

The Applicant states that Mitsubishi ranked as the 5th largest bank in the free world in terms of deposits as of December 31, 1984. As of March 21, 1985, Mitsubishi had worldwide assets equivalent to approximately U.S. $116.4 billion, worlwide desposits equivalent to approximately U.S. $86.0 billion, worldwide loans equivalent to approximately U.S. $57.9 billion and total stockholers' equity equivalent to approximately U.S. $2.2 billion. Mitsubishi is presently engaged in the conduct of a commercial banking business in Japan, which includes receiving deposits, making loans, discounts and security investments, conducting domestic and foreign exchange transactions and performing such other related services as safekeeping, money exchange, collections and issuing guarantees, acceptances and letters of credit. The application states that Mitsubishi is extensively regulated under Japanese banking laws and the regulations promulgated thereunder. The Japanese Ministry of Finance audits Mitsubishi once every two or three years and The Bank of Japan conducts field checks once every or three years. The Japanese Ministry of Finance supervises the lending ratios and lending limits of Japansese banks. In additon, the Japanese Ministry of Finance exercises supervisory control over Japanese banks by reason of the necessity of obtaining the approval of the Japanese Ministry of Finance with respect to such matters as the establishment of additonal offices, reductions in capital, mergers, liquidations or discontinuations of business. The Japanese Ministry of Finance also has the authority to instruct Japanese bank to remove directors, to direct a Japanese bank to submit to certain property to be held for the protection of depositors or to issue such other as may be deemed necessary.

The application states that Mitsubishi has been licensed by the New York State Superintendent of Banks to maintain a branch office in New York State since May 1977 and that, under its present branch license, The Mitsubishi Bank, Limited, New York Branch ("Mitsubishi New York") is authorized to engage in "the business of buying, selling, paying or collecting bills of exchange, or of issuing letters of credit or of receiving money for transmission or transmitting the same by draft, check, cable or otherwise, or of making loans, or of receiving deposits." Mitsubishi New York, as a New York branch of a foreign bank, is subject to extensive Federal and New York State regulation. The application further indicates that Mitsubishi New York is also subject to regulation under the International Banking Act of 1978.

The Applicant states that the Securities to be publicly offered by the Applicant in the United States will be sold in minimum denominations of U.S. $100,000 through major dealers, will be sold only to institutional and other sophisticated investors, will have varying maturities not exceeding five years and will not include any provision for extension, renewal or automatic rollover. Payment of the principal of, and interest on, the Securities will be unconditionally guaranteed by Mitsbubishi New York, or by Mitsubishi. The Aplicant represents that the Securities will have received one of the three highest investment grade rating from at least one nationally receognized statistical rating organization. The Applicant undertakes that, prior to the issuance of any Securities, its United States counsel shall have certified that a rating in accordance with the immediately preceeding sentence has been received; the Securities will rank *pari passu* among themselves, and the guarantees in respect thereof will rank *pari passu* among themselves; the Securities will rank equally with all other unsecured indebtedness of the Applicant, including deposit liabilities, and superior to righs of shareholders; and the guarantees of the Securities will rank equally with all other unsecured indebtedness of Mitsubishi New York or Mitsubishi, as the case may be (except to the extent such indebtedness is perferred by operation of law), including depoisit liabilities, and superior to rights of shareholders.

The Applicant understakes that any offering in the United States of Securities will be made only pursuant to a registration statement under the 1933 Act, or pursuant to an applicable exemption from the registration

requirements of the 1933 Act. The Applicant further undertakes that any such offering will be done on the basis of disclosure documents that are appropriate and customary for such registration or exemption, and in any event at least as comprehensive as those used in offering of similar securities in the United States by United States issuers, and which include a memorandum describing the business of Mitsubishi and the Applicant and containing the most recent pullicly available annual financial statement of Mitsubishi and the Applicant (including a balance sheet and income statment), audited in accordance wiht Japanese and Panamanian accounting principles, respectively. Such memorandum will include brief paragraphs highlighting the material differences between generally accepted accounting principles applicable to United States banks and (i) Japanese accounting principles applicable to Japanese banks and used by Mitsubishi and (ii) Panamanian accounting principles applicable to Panamanian banks and used by the Applicant. Such memorandum will be updated promptly to reflect material changes in the business and financial condition of Mitsubishi or the Applicant. The Applicant further undertakes to ensure that such disclosure documents will be provided to each offeree who has indicated an interest in purchasing Securities prior to any sale of such Securities to such offeree; except that, in the case of an offering being made pursuant to a registration under the 1933 Act, such disclosure documents will be provided to such persons and in such manner as may be requred by the 1933 Act.

The Applicant also undertakes, in connection with any offering of Securities in the United States, that it will expressly accept the jurisdiction of any state or federal court in the City and State of New York in respect of any action based on such Securities. The Applicant further undertakes to appoint an agent located in the City and State of New York (which may be Mitsubishi New York) to accept any process which may be served in any such action. Such consent to jurisdiction and appointment of an agent for service of process will be irrevocable so long as such Securities remain outstanding and until all amounts due and to become due in respect of such Securities have been paid.

The Applicant also undertakes that it will not offer any Security without registration under the 1933 Act, unless it shall have received an opinion of its United States legal counsel to the effect that, under the circumstances of the proposed offering, such security will be entitled to an exemption provided under the 1933 Act, or the Staff of the Commission shall have stated in writing that it will not recommend enforcement action to the Commission under the circumstances of the proposed offering. The Applicant further undertakes that it will not offer any Security (i) in the case of any Security to be guaranteed by Mitsubishi New York, unless it shall have received an opinion of Japanese legal counsel to Mitsubishi to the effect that obligation of Mitsubishi New York pursuant to such guarantee also constitutes the legal, valid and binding obligation of Mitsubishi enforceable against Mitsubishi in accordance with its terms, and (ii) in the case of any Security to be guaranteed by Mitsubishi, unless Mitsubishi shall have obtained an order of the Commission pursuant to section 6(c) of the Act exempting it from all provisions of the Act in connection with the issuance of such guarantee.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 26, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13059 Filed 6-9-86; 8:45]

BILLING CODE 8010-01-M

[Release No. 34-23288; SR-NASD-86-2]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc.

On January 13, 1986, the National Association of Securities Dealers, Inc. ("NASD") submitted to the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to delete from the calculation of the NASDAQ-100 Index any foreign securities traded through American Depository Receipts ("ADRs").[3]

In September 1985, the Commission approved the NASD's proposal to trade options on the NASDAQ-100 Index.[4] The NASDAQ-100 Index includes both domestic and foreign National Market System ("NMS") Securities. Currently, the NASDAQ-100 Index only includes two foreign issues in the form of ADRs whose representation in the Index is proportional to the last sale price times the total number of ADRs outstanding in relation to the total market value of the Index. As of February 1, 1985, these two foreign issues represented 1.73% of the total market value of the NASDAQ-100 Index.

In its filing, the NASD states that it is easier for certain market participants to compute the total shares outstanding, rather than the total ADRs in circulation, for a foreign issue. As a result, the NASD has decided that the NASDAQ-100 Index should cease to contain any foreign issues represented in the form of ADRs. The two foreign issues affected by the proposed rule change will be replaced by the next largest non-financial NMS securities that are not traded as ADRs. The NASD states that the statutory basis for the proposed rule change is section 15A(b)(6) of the Act.

The Commission is publishing this release to solicit comment on the proposed rule change. Persons interested in commenting on the proposal should submit six copies of their comments within 21 days from the date of publication of the notice in the **Federal Register**. Comments should be sent to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the proposed rule change, and all documents relating to the proposed rule change, except those that may be withheld from the public pursuant to 15 U.S.C. 552, are available for inspection and copying at the Commission's Public Reference Room. Copies of the filing also are available at the NASD.

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[1] On January 24, 1986, the NASD submitted pages that renumbered the filing to SR-NASD-86-2. No substantive changes were made to the filing. *See* letter from John J. Flood, Senior Attorney, NASD, to Sharon M. Lawson, Attorney, SEC, dated January 22, 1986.

[2] 15 U.S.C. 78s(b)(1)(1982).

[3] 17 CFR 240.19b-4 (1985).

[4] Securities Exchange Act Release No. 22404, (September 13, 1985), 50 FR 38235.

The proposed rule change is intended to simplify the NASDAQ-100 Index by omitting from the Index those foreign securities that are represented by ADRs. For this reason, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular section 15A of the Act.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the same index option trading rules and surveillance plan previously approved by the Commission will continue to apply to options trading on the NASDAQ-100 Index. In addition, the change in contract specifications for the NASDAQ-100 Index will not materially alter the composition or calculation of the Index.

It Is Therefore, Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 30, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13021 Filed 6-9-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23290; File No. SR-NYSE-86-15]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc. Relating to Accelerated Delisting of Multiply Traded Options

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 May 16, 1986, the New York 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 published 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

The Exchange is proposing to amend Rule 716, governing "Withdrawal of Approval of Underlying Stocks and Groups", as follows: (Italics indicate language added.)

Rule 716. (a) through (c) No change.

. . . Supplementary Material:

.10 through .40 No change.

.50 If a stock underlying options trading on the Exchange is also the subject of options trading on or through the facilities of a Participating Exchange or Association, at the time the Exchange determines that approval for continued options trading on such underlying stock should be withdrawn, then the Exchange may apply to the Securities and Exchange Commission to delist such options prior to the time all series of such options have expired. Member organizations will be notified prior to the delisting.

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, and the Statutory Basis for, the Proposed Rule Change

The Exchange is proposing an addition to Rule 716, new Supplementary Material .50, that will allow the Exchange to delist options on underlying stocks prior to the expiration of all open series. Under the current rules, when the Exchange determines it is appropriate to withdraw approval for continued options trading on an underlying stock, it must wait until all the then open-series expire before it can delist the option. This provision provides investors who have established option positions the opportunity to close their positions in the secondary market.

This provision protects investors in options which trade only in one market; investors in multiply-traded options can choose from several marketplaces. If one marketplace decides to withdraw from trading an option, the investor still has available other markets to close any open option position. Therefore, the Exchange is proposing that, if the option it has chosen to delist is also available in another marketplace, the Exchange may delist the option prior to the expiration of all open series.

The statutory basis of the proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"), in particular, its requirements that the rules of a national securities exchange remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change imposes no burden on competition.

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.

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 reason 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 20546. 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 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 July 1, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 2, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13022 Filed 6-9-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23291; File No. SR-PSE-86-9]

Self-Regulatory Organizations; Proposed Rule Change by Pacific Stock Exchange, Inc., Relating to Guidelines for Issuance of an Options Floor Citation

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 May 19, 1986, The Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") 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

This rule filing will have the effect of conforming the Options Floor Procedure Advice ("OFPA") E-4 to the present procedure for obtaining a member's signature on the Floor Citation when he or she is cited. In addition, it will further define a time period that the Floor Officials must follow when they do not cite a member immediately. The final change to OFPA E-4 is to broaden the scope of the Floor Citation to include two rule violations that would be better handled as Floor Citations rather than through formal disciplinary proceedings. The two proposed additional rule violations are as follows:

Rule VI, section 55(.01) Member failed to time-stamp an execution in which he participated as a seller.

Rule VI, section 66(a) Member placed, or permitted placement of an order with an Order Book Official for an account in which such member or his organization, any other member or member organization, or any non-member broker/dealer has an interest.

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. 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 important aspects of such statement.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The first change in this filing is to the language that applies to requesting a signature from the person who is charged with a rule violation by citation. Although the existing language in OFPA E-4 states that the alleged violator's signature on the citation indicates that he consents to the imposition of a minimum fine, that language has already been deleted from the citation forms. The language that is presently on the citation form states that the alleged violator's signature only acknowledges *receipt* of said citation. Accordingly the first part of the amendment will reflect a procedure that is already in place and will afford the member a review by Committee before a fine is levied.

The second change in the amendment relates to the time period in which a floor citation or alternative report may be issued. As the procedure is presently written, a Floor Official is obligated to issue a citation when he becomes aware of it. If for any reason the Floor Official does not issue a citation, he is then obligated to issue a report, in writing, to the Surveillance Department with a copy to the alleged violator, within 24 hours. However, the procedure does not state specifically what triggers the start of the 24-hour period. Accordingly, this amendment will specify that the 24-hour period will begin after the Floor Official becomes aware of the alleged violations.

Finally, the scope of OFPA E-4 will be broadened to include specific violations that may only be discovered by the Compliance or Surveillance Departments, but which shall be handled by a Floor Citation, rather than by a formal Complaint. As of now, only two such violations will be included in this procedure.

Once the Compliance/Surveillance Department discovers either of these violations, the amendment to OFPA E-4 will direct the Floor Official to be notified of the violation. Once notified, the Floor Official will then have the same obligation of issuing a citation (or a report why the citation was not issued) as specified earlier.

This amendment will serve the purpose of properly reflecting the current procedure. It will also create a more practical approach for dealing with certain rule violations without infringing on any rights of the alleged violator.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition

(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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the 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 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at

the principal office of the PSE. All submission should refer to the file number in the caption above and should be submitted by July 1, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 2, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13023 Filed 6-9-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15128; 811-3294]

Sutro Money Market Fund; Application for Investment Company Deregistration

June 3, 1986.

Notice is hereby given that Sutro Money Market Fund ("Applicant"), Federated Investors Building, 421 Seventh Avenue, Pittsburgh, PA 15219, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on December 11, 1985, and an amendment thereto on June 2, 1986, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act and the rules thereunder for the text of the relevant provisions.

According to the application, Applicant filed its registration statement pursuant to the Act and the Securities Act of 1933 on October 22, 1981, to register an indefinite number of shares of beneficial interest at no par value. Applicant states that its registration became effective on February 19, 1982, and that its initial public offering commenced on that date. By letter dated June 28, 1985, Applicant informed its existing shareholders of its intent to terminate business activities and offered shareholders the option to transfer their existing balances to Capital T Money Market Fund. Applicant states that, thereafter, all of its shares were redeemed by Sutro and Co. ("Sutro"), acting on behalf of its customers for whom it held such shares in "street name." Applicant states that following this massive redemption it did not have sufficient assets to expend on the preparation and distribution of a proxy, for the sole purpose of allowing its former shareholders to vote on the liquidation. Applicant represents that in light of the presumably voluntary redemption of all Applicant's shares by Sutro on behalf of the beneficial shareholders, it believes that it had little choice but to assume that its proposal for the liquidation would have received the required majority vote.

Applicant represents that it is not a party to any litigation or administrative proceedings, that it does not propose to engage in any business activities other than those necessary to effectuate the winding-up of its business and affairs, and that it has no securityholders, assets, debts or liabilities. According to the application, Applicant's Board of Trustees authorized the filing of Applicant's section 8(f) application on August 28, 1985, and Applicant will file Articles of Dissolution pursuant to Massachusetts state law.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 27, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13060 Filed 6-9-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[CM-8/975]

State Department—American Private Sector Overseas Security Advisory Council; Closed Meeting

The Department of State announces a meeting of the State Department—American Private Sector Overseas Security Advisory Council on Thursday, June 26, 1986, at 9 a.m. in Room 3407, U.S. Department of Commerce. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and (4), it has been determined that the meeting will be closed to the public. Matters classified pursuant to Executive Order—12356 or items of a privileged commercial nature will be discussed. The agenda calls for the approval of working agendas of new committees, briefings on recent terrorist incidents and a discussion of federal law enforcement practices and procedures.

Dated: June 3, 1986.

David C. Fields,

Deputy Assistant Secretary, Diplomatic Security Service.

[FR Doc. 86-12989 Filed 6-9-86; 8:45 am]

BILLING CODE 4710-24-M

[Public Notice CM-8/977]

Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on July 3, 1986 in the first floor Theater, Communications Satellite Corporation, 950 L'Enfant Plaza, SW., Washington, DC. The meeting will begin at 9:30 a.m.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The purpose of the meeting will be to review activities of the XVIth Plenary Assembly (May, 1986) and to continue the plan of work for the Study Group during the 1986-1990 period.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, DC 20520; telephone (202) 647-2592.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

June 4, 1986.

[FR Doc. 86-13046 Filed 6-9-86; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/976]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International

Telegraph and Telephone Consultative Committee (CCITT) will meet on Saturday, July 12, 1986 at 8:30 a.m. at the Adams Marks Hotel, City Avenue and Monument Street, Philadelphia, Pennsylvania, 19131.

The purpose of this meeting is to review contributions from the May 2 meeting of Study Group XV on fiber optics.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. All persons planning to attend the meeting should contact Mr. Paul Bryan at (201) 234-3790.

Dated: May 27, 1986.

Earl S. Barbely,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86-13045 Filed 6-9-86; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Legal Opinion as to the Recordability of Artisan Liens and Identification of Those States From Which Such Liens Will Be Accepted

In the December 17, 1981, **Federal Register**, Vol. 46, No. 242, Page 61528, the Federal Aviation Administration, Mike Monroney Aeronautical Center, published its legal opinion on the recordability of artisan liens, with the identification of those states from which artisan liens would be accepted. In the April 23, 1984, **Federal Register**, Vol. 49, No. 79, page 17112, we advised that Florida, Nevada and New Jersey had passed legislation which, in our opinion, allows the Aircraft Registry to accept artisan liens from those states.

The purpose of this opinion is to advise interested parties in the aviation community that in addition to those states identified in the April 23, 1984, publication, Minnesota and New Mexico are identified as states from which artisan liens will be accepted.

The complete list of states from which artisan liens on aircraft will be accepted as of this date are:

Alaska	Nevada
Arkansas	New Jersey
Florida	New Mexico
Georgia	Oklahoma
Illinois	Oregon
Indiana	South Carolina
Kansas	South Dakota
Kentucky	Virgin Islands
Maine	Washington
Minnesota	Wyoming
Nebraska	

For further information, contact Mr. R. Bruce Carter, Office of the Aeronautical Center Counsel, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125. Telephone: (405) 686-2296.

Issued in Oklahoma City, on May 30, 1986.

Joseph R. Standell,

Aeronautical Center Counsel.

[FR Doc. 86-12975 Filed 6-9-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

[GEORGIA PROJECT EDS-460(2) P.I. Number 662200]

Environmental Impact Statement; Forsyth & Gwinnett Counties

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Forsyth-Gwinnett Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: Tom Myers, District Engineer, Federal Highway Administration, Suite 300, 1720 Peachtree Road, NW., Atlanta, Georgia 30309, telephone (404) 347-4751, or Peter Malphurs, State Environment/Location Engineer, 3993 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696-4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal to construct a new location connector (four lane divided roadway) from S.R. 400 in Forsyth County southeasterly, to Interstate 85 in Gwinnett County. Project length is approximately 14.8 miles. The proposed work is necessary to accommodate existing and future traffic demand resulting from the continued growth in the Metropolitan Atlanta area.

The build alternative and the no-build alternative are currently under consideration.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A formal scoping meeting has not been scheduled. A public hearing will also be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the Georgia DOT at the addresses provided above.

The catalog of Federal Domestic Assistance Program Number is 20.205 *Highway Research, Planning and Construction.* The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.

Tom Myers,

District Engineer, Federal Highway Administration, Atlanta, Georgia.

[FR Doc. 86-12998 Filed 6-9-86; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Humacao, Yabucoa, Maunabo, Patillas, Arroyo and Guayama; Puerto Rico

AGENCY: Federal Highway Administraton (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the relocation of highway PR-3 along the cities of Humacao, Yabucoa, Maunabo, Patillas, Arroyo and Guayama, Puerto Rico.

FOR FURTHER INFORMATION CONTACT:

Mr. Juan O. Cruz, Division Administrator, Federal Highway Administration, Puerto Rico Division, U.S. Courthouse and Federal Building, Room 150, Carlos Chardon Street, Hato Rey, Puerto Rico 00918, Phone (809) 753-4600

Mr. Joaquin Crespo Moyet, Environmental Studies Office, Department of Transportation, and Public Works, Box 41269, Minillas Station, Santurce, Puerto Rico, Phone (809) 728-6290.

SUPPLEMENTARY INFORMATION: The proposed project consists of the relocation of route PR-3 from Humacao to Guayama located at the southeastern part of Puerto Rico. It will be a four lane divided freeway, with paved shoulders at both sides and a median of variable width to provide for future widening to six lanes near Humacao and Guayama for a total length of 42.5 kilometers.

The existing primary route PR-3 is operating over capacity in approximately 35 percent of its length specially along a 15.0 kilometer segment south of Humacao and 3.0 kilometer segment east of Guayama. The entire route is in critical conditions from the standpoint of vertical and horizontal

curves and roadside obstacles, being a hazard for the user's safety.

Alternatives to the proposed action include different highway alignments at some segments of the corridor, widening of existing route PR-3 and the no-build alternative.

The proposed scoping process for the proposed action will include coordination with all concerned Federal and State agencies through a consultation process by letter before the environmental studies and the preparation of the Draft EIS is started and meetings or visits to the project area with public officials who could have significant comments related to the proposed action.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OBM Circular No. A-95 regarding State and Local clearinghouse review of Federal and federally assisted programs and projects apply to this program).

Issued on: May 30, 1986.

Juan O. Cruz,

Division Administrator, San Juan, Puerto Rico.

[FR Doc. 86-12999 Filed 6-9-86; 8:45 am]

BILLING CODE 4910-20-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: June 4, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0119
Form Number: ATF F 2149/2150 (5200.14)
Type of Review: Revision
Title: Notice of Removal of Tobacco Products, Cigarette Papers, or Cigarette Tubes

OMB Number: 1512-0164
Form Number: ATF F 3069 (5200.7)
Type of Review: Revision
Title: Schedule of Tobacco Products, Cigarette Papers or Tubes Withdrawn From the Market

OMB Number: 1512-0163
Form Number: ATF F 5210.5 (3068)
Type of Review: Revision
Title: Manufacturer of Tobacco Products Monthly Report

Clearance Officer: Robert G. Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue, 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.

Stephen Bashein,

Departmental Reports Management Office.

[FR Doc. 86-13063 Filed 6-9-86; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

Privacy Act of 1974; Altered System

ACTION: Notice of an altered system of records for Treasury/BPD.003—United States Securities (Other than Savings-Type Securities).

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, the Commissioner of the Bureau of the Public Debt gives notice by this publication of changes in the following system of records: Treasury/BPD.003—United States Securities (Other than Savings-Type Securities). The reason for the changes arises from the development of a new computer system with on-line terminal access to certain categories of records within the overall system of records. The system is called the TREASURY DIRECT Book-entry Securities System.

This system of records was last published in 50 FR 143 at page 30387, dated July 25, 1985. The changes being made are as follows:

The section "Categories of records in the system" is modified to reflect that investors' records of holdings of Treasury securities will include those maintained in the new TREASURY DIRECT computer system.

The section on "Safeguards" includes a statement that records stored on computers with one-line terminal access, as will be the case with TREASURY DIRECT, cannot be accessed without the terminal operator having entered the proper passwords and having preauthorized capability to perform a particular function.

The remaining changes relate to how individuals may request access to their records and propose correction of records. In general, the changes clarify to whom requests should be made. The most significant of these changes is under the section "Requests for access tor records." Under TREASURY DIRECT, investors may contact a Federal Reserve Bank or Branch closest to them to obtain information relating to them rather than having all such requests forwarded to the Bureau as in the past. An appendix has been added to this system of records listing the addresses and telephone numbers of all the locations to which such requests may be made.

SUPPLEMENTARY INFORMATION: The Bureau of the Public Debt had the new TREASURY DIRECT computer system developed so that the Department of the Treasury can complete plans to offer new issues of marketable Treasury debt in book-entry form rather than issuing physical securities. TREAUSRY DIRECT will provide many benefits to investors desiring to maintain their securities directly with the Treasury including a consolidated account for all holdings of an investor and payments to be made by direct deposit in the investor's financial institution rather than by check. It will also provide significant operating savings to Treasury.

The new computer system was developed and will be operated by the Federal Reserve Bank of Philadelphia in the capacity as fiscal agent of the Department of the Treasury. Access to the records will be through computer terminals located in all Federal Reserve Banks and Branches and the Bureau of the Public Debt through the Federal Reserve Communications System (FRCS-80).

No other major change to the system of records is being made other than those discussed above. There will be no change in the kind of data collected from individuals or in the categories of individuals nor are there any new routine uses being proposed.

The nature of the alteration of this system of records requires, under Section 552a(o) of the Privacy Act and Office of Management and Budget (OMB) Circular No. A-130, that a report be submitted to both Houses of the Congress and to OMB. That report was submitted at the same time this notice was submitted for publication.

DATE: Comments must be received no later than 30 days after publication of this notice. The proposed changes will become effective July 10, 1986.

ADDRESS: Comments may be sent to: Information Officer, Bureau of the Public Debt, Washington, DC 20239.

FOR FURTHER INFORMATION CONTACT: Volney M. Taylor (202) 376-4307, Information Officer.

Dated: June 4, 1986.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

Treasury BPD .003

SYSTEM NAME:

United States Securities (Other than Savings-Type Securities)—Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt; Washington, DC 20239; Parkersburg, WV 26106; and Ravenswood, WV 26164. Federal Reserve Banks and Branches located at: Atlanta, GA; Baltimore, MD; Birmingham, AL; Boston, MA; Buffalo, NY; Charlotte, NC; Chicago, IL; Cincinnati, OH; Cleveland, OH; Dallas TX; Denver, CO; Detroit, MI; El Paso, TX; Jacksonville, FL; Helena, MT; Houston, TX; Kansas City, MO; Little Rock, AR; Louisville, KY; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Oklahoma City, OK; Omaha, NE; Philadelphia, PA; Pittsburgh, PA; Portland, OR; Richmond, VA; Salt Lake City, UT; San Antonio, TX; San Francisco, CA; Seattle, WA; and St. Louis, MO. Federal Records Centers located at: Waltham, MA; New York, NY; Bayonne, NJ; Philadelphia, PA; Mechanicsburg, PA; Washington, DC; East Point, GA; Chicago, IL; Dayton, OH; Kansas City, MO; St. Louis, MO; Fort Worth, TX; Denver, CO; San Bruno, CA; Laguna Niguel, CA; and Seattle, WA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former owners of, subscribers to, claimants to, persons entitled to, and inquirers concerning United States securities (except savings-type securities) and interest thereon and such securities for which the Treasury acts as agent including, but not limited to, Treasury Bonds, Notes, and Bills; Adjusted Service Bonds; Armed Forces Leave Bonds; and Federal Housing Administration Debentures.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Issuance: Records relating to tenders, bids, subscriptions, advices of shipment, requests (applications) for original issue, and correspondence concerning erroneous issue and nonreceipt of securities. (2) Holdings: Records of ownership and interest activity on registered or recorded United States securities (other than savings-type securities); change of name and address notices; correspondence concerning errors in registratoin or recordation; nonreceipt or over and underpayments of interest and principal; records of interest activity; records of unclaimed accounts; and letters concerning the New York State tax exemption for veterans of World War I. (3) Transactions (redemptions, payments, reissues, transfers, and exchanges): Records which include securities transaction requests; legal papers supporting transactions; applications for transfer, disposition, or payment of securities of deceased or incompetent owners; records of federal estate tax transactions; certificates of ownership covering paid overdue bearer securities; records of erroneous redemption transactions; records of retired securities; and payment records. (4) Claims: Records including correspondence concerning lost, stolen, destroyed, or mutilated United States securities (other than savings-type securities) or securities for which the Treasury acts as agent and interest coupons thereon; bonds of indemnity; legal documents supporting claims for relief; and records of caveats entered. (5) Inquiries: Records of correspondence with individuals who have requested information concerning United States securities (other than savings-type securities) or securities for which the Treasury acts as agent. (6) All the above categories of records except "(4) Claims" include records of Treasury bills, notes, and bonds in the TREASURY DIRECT Book-entry Securities System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. *et seq.* and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

A record or information from a record maintained in this system of records may be disclosed as a routine use: (1) To disclose information to agents or contractors of the Department for the purpose of administering the public debt of the United States; (2) To disclose information to next-of-kin, voluntary guardian, legal representative, or successor in interest of a deceased or incapacitated owner of securities and others entitled upon transfer, exchange, distribution, or payment for the purpose of assuring equitable and lawful disposition of securities and interest; (3) To disclose information to any of the owners if the related securities are registered or recorded in the names of two or more owners; (4) To disclose information to the Internal Revenue Service for the purpose of facilitating the collection of the tax revenues of the United States; (5) To disclose information to the Department of Justice in connection with lawsuits to which the Department of the Treasury is a party or to trustees in bankruptcy for the purpose of carrying out their duties; (6) To disclose information to the Veterans Administration when it relates to the holdings of Armed Forces Leave Bonds to facilitate the redemption or disposition of these securities; (7) To disclose information to other federal agencies to effect salary or administrative offset for the purpose of collecting debts; (8) To disclose information to a consumer reporting agency, including mailing addresses obtained from the Internal Revenue Service, to obtain credit reports; (9) To disclose information to a debt collection agency, including mailing addresses obtained from the Internal Revenue Service, for debt collection services; (10) To disclose information to contractors conducting Treasury-sponsored surveys, polls, or statistical analyses relating to marketing or administration of the public debt of the United States; (11) To disclose pertinent information to appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (12) To disclose to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena; and (13) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. See "Requests for Access to Records" for information furnished to individuals requesting access to records relating to them.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Debtor information is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored in their original form in file cabinets, as

information in electronic media, or on microform.

RETRIEVABILITY:

Information can be retrieved by Social Security or account number, or, in some cases, alphabetically by name or numerically by security serial number. In the case of securities registered in more than one name, information relating thereto can generally only be retrieved by Social Security number or by the name of the first-named owner

SAFEGUARDS:

Information is contained in secure buildings, Federal Records Centers, or in areas which are occupied either by officers and responsible employees of the Department who are subject to personnel screening procedures and to the Treasury Department Code of Conduct or by agents of the Department who are required by the Department to maintain proper control over records while in their custody. Additionally, since in most cases, numerous steps are involved in the retrieval process, unauthorized persons would be unable to retrieve information in a meaningful form. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures Additionally, for those categories of records stored in computers with terminal access, the information cannot be obtained or modified without proper passwords and preauthorized functional capability.

RETENTION AND DISPOSAL:

Records of holdings, forms, documents, and other legal papers which constitute the basis for transactions subsequent to original issue are maintained for such time as is necessary to protect the legal rights and interests of the U.S. Government and the persons affected, or otherwise until they are no longer historically significant. Other records are disposed of at varying intervals in accordance with records retention schedules reviewed and approved by the National Archives and Records Administration. All records are destroyed by shredding, incineration, or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, Bureau of the Public Debt, Washington, D.C. 20239.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination if the system contains records pertaining to them or for access to records as provided under "Records access procedures" and "Requests for access to records". Contesting records procedures or requests for correction of records and appeals from an initial denial of a request for correction of records may be submitted as provided under the applicable heading below.

RECORD ACCESS PROCEDURES:

Individuals who wish to request access to records relating to them or who wish to request correction of records they believe to be in error should submit such requests pursuant to the procedures set out below in compliance with the applicable regulations (31 CFR Part 1, Subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request but will be answered to the extent possible.

REQUESTS FOR ACCESS TO RECORDS:

(1) Request by individuals about securities they own: (a) For Treasury bills, notes, or bonds held in the TREASURY DIRECT Book-entry Securities System: Individuals may contact the nearest Federal Reserve Bank or Branch or the Bureau of the Public Debt as listed in Appendix 1 to this system of records. Individuals should provide sufficient information, including their Social Security number, to identify themselves as owners of securities and sufficient information, including account number, to identify their TREASURY DIRECT account. (b) For all other categories of records in this system of records: Individual owners should contact: Office of the Assistant Commissioner (Securities and Accounting Services), Bureau of the Public Debt, Washington, D.C. 20239. Requests should contain information to identify themselves including name, address, and Social Security number; the type of security involved such as a registered note or bond, an Armed Forces Leave Bond, etc.; and, to the extent possible, specify the loan, issue date, denomination, exact form of registration, and other information about the securities. (2) Requests by individuals who are representatives of owners or their estates require appropriate authority papers. Write to: Office of the Assistant Commissioner (Securities and Accounting Services), Bureau of the Public Debt, Washington, D.C. 20239, to obtain information on these requirements. (3) In all cases: The request for information will be honored only if the identity and right of the requester to the information have been established.

CONTESTING RECORDS PROCEDURES OR REQUESTS FOR CORRECTION OF RECORDS:

(1) A request by an individual contesting records procedures or for correction of records should be in writing, be signed, and, in order for the Privacy Act procedures to apply, state that the request is made pursuant to the Privacy Act of 1974. (2) The request should specify: (a) the dates of the prior correspondence with the Bureau or a Federal Reserve Bank or Branch concerning the records in question, (b) the specific records involved, (c) the change or correction requested, and (d) the reasons therefor. (3) The request must include any available evidence in support of the request and should be sent to: Assistant Commissioner (Securities and Accounting Services), Bureau of the Public Debt, Washington, D.C. 20239.

APPEALS FROM AN INITIAL DENIAL OF A REQUEST FOR CORRECTION OF RECORDS:

(1) An appeal from an initial denial of a request for correction of records must be in writing, be signed by the individual involved, and, in order for the Privacy Act procedures to apply, state that it is made pursuant to the Privacy Act of 1974. (2) All appeals must, to be handled under the Privacy Act procedures, be delivered to the address set forth for submission of appeals within 35 days of the individual's receipt of the initial denial of the requested correction. (3) All appeals must specify: (a) The records to which the appeal relates, (b) the date of the initial request made for correction of the records, and (c) the date that initial denial of the request for correction was received. (4) All appeals must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence. (5) Appeals should be addressed to the Commissioner, Bureau of the Public Debt, Washington, D.C. 20239, or as otherwise provided in the applicable appendix to 31 CFR Part 1, Subpart C.

RECORD SOURCE CATEGORIES:

Information contained in records in the system is furnished by the individuals or their authorized representatives as listed in "Categories of Individuals," or is generated within the system itself.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1

This appendix lists the places that may be contacted by individuals when

inquiring about their securities accounts maintained in TREASURY DIRECT. The initials "FRB" stand for Federal Reserve Bank or Branch and are followed by the name of the city. Where a separate address is required for written requests, it follows the initial entry for that FRB.

FRB Atlanta, 104 Marietta Street, NW, Atlanta, GA 30303, 404-521-8657, P.O. Box 1731, Atlanta, GA 30303

FRB Baltimore, 502 S. Sharp Street, Baltimore, MD 21201 301-576-3300, P.O. Box 1378, Baltimore, MD 21201

FRB Birmingham, 1801 Fifth Avenue, North, Birmingham, AL 35202, 205-252-3141 Ext. 215 or 264, P.O. Box 10447, Birmingham, AL 35202.

FRB Boston, 600 Atlantic Avenue, Boston, MA 02106, 617-973-3805 TREASURY DIRECT, 617-973-3810, P.O. Box 2076, Boston, MA 02106

FRB Buffalo, 160 Delaware Avenue, Buffalo, NY 14240, 716-849-5046, P.O. Box 961, Buffalo, NY 14240

FRB Charlotte, 401 South Tryon Street, Charlottle, NC 28230, 704-336-7100, P.O. Box 30248, Charlotte, NC 28230

FRB Chicago, 230 South La Salle Street, Chicago, IL 60690, 312-322-5369, P.O. Box 834, Chicago, 60690

FRB Cincinnati, 150 East Fourth Street, Cincinnati, OH 45201, 513-721-4787, Ext. 333, P.O. Box 999, Cincinnati, OH 45201

FRB Cleveland, 1455 East Sixth Street, Cleveland, OH 44101, 216-579-2490, P.O. Box 6387, Cleveland, OH 44101

FRB Dallas, 400 South Akard Street, Securities Department, Station K, Dallas, TX 75222, 214-651-6362

FRB Denver, 1020 16th Street, Denver, CO 80217, 303-572-2466, 303-572-2470, P.O. Box 5228, Terminal Annex, Denver, CO 80217

FRB Detroit, 160 West Fort Street, Detroit, MI 48231, 313-964-6157, P.O. Box 1059, Detroit, MI 48231

FRB El Paso, 301 East Main Street, El Paso, TX 79999, 915-544-4730, P.O. Box 100, El Paso, TX 79999

FRB Houston, 1701 San Jacinto Street, Houston, TX 77252, 713-659-4433, P.O. Box 2578, Houston, TX 77252

FRB Jacksonville, 515 Julia Street, Jacksonville, FL 32231-2499, 904-632-4245, P.O. Box 2499, Jacksonville, FL 32231-2499

FRB Kansas City, Securities Department, 925 Grand Avenue, Kansas City, MO 64198, 816-881-2783 or 2109, P.O. Box 440, Kansas City, MO 64198

FRB Little Rock, 325 West Capitol Avenue, Little Rock, AR 72203, 501-372-5451 Ext. 288, P.O. Box 1261, Little Rock, AR 72203

FRB Los Angeles, 409 West Olympic Boulevard, Los Angeles, CA 90051, 213-683-8546, P.O. Box 2077, Terminal Annex, Los Angeles, CA 90051

FRB Louisville, 410 South Fifth Street, Louisville, KY 40232, 502-568-9236, 502-568-9238, P.O. Box 32710, Louisville, KY 40232

FRB Memphis, 200 North Main Street, Memphis, TN 38101, 901-523-7171, Ext. 225 or 641, P.O. Box 407, Memphis, TN 38101

FRB Miami, 9100 N.W. Thirty-Sixth Street, Miami, FL 33178, 305-593-9923, P.O. Box 520847, Miami, FL 33152

FRB Minneapolis, 250 Marquette Avenue, Minneapolis, MN 55480, 612-340-2075

FRB Nashville, 301 Eighth Avenue, North, Nashville, TN 37203

FRB New Orleans, 525 St. Charles Avenue, New Orleans, LA 70161, 504-586-1505, Ext. 293, P.O. Box 61630, New Orleans, LA 70161

FRB New York, 33 Liberty Street, New York, N.Y. 10045, 212-791-6619, Federal Reserve P.O. Station, New York, NY 10045

FRB Oklahoma City, 226 Dean A. McGee Avenue, Oklahoma City, OK 73125, 405-235-1721, Ext 182, P.O. Box 25129, Oklahoma City, OK 73125

FRB Omaha, 102 South Seventeenth, Omaha, NE 68102, 402-341-3610, Ext. 242

FRB Philadelphia, Securities Division, Ten Independence Mall, Philadelphia, PA 19106, 215-574-6680, P.O. Box 90, Philadelphia, PA 19105

FRB Pittsburgh, 717 Grant Street, Pittsburgh, PA 15230-0867, 412-261-7988, P.O. Box 867, Pittsburgh, PA 15230-0867

FRB Portland, 915 S.W. Stark Street, Portland, OR 97208, 503-221-5921 or 5931, P.O. Box 3436, Portland, OR 97208

FRB Richmond, 701 East Byrd Street, Richmond, VA 23261, 804-642-1250, P.O. Box 27622, Richmond, VA 23261

FRB Salt Lake City, 120 South State Street, Salt Lake City, UT 84130, 801-355-3131, 801-322-7911, P.O. Box 30780, Salt Lake City, UT 84130

FRB San Antonio, 126 East Nueva Street, San Antonio, TX 77252, 512-224-2141, Ext. 303-309, P.O. Box 1471, San Antonio, TX 77252

FRB San Francisco, 101 Market Street, San Francisco, CA 94120, 415-392-6640 or 6650, P.O. Box 7702, San Francisco, CA 94120

FRB Seattle, 1015 Second Avenue, Seattle, WA 98124, 206-442-1650, P.O. Box 3567, Seattle, WA 98124

FRB St. Louis, 411 Locust Street, St. Louis, MO 63166, 314-444-8602, P.O. Box 442, St. Louis, MO 63166

Department of the Treasury, Washington, DC

Bureau of the Public Debt, Department A, Washington, DC 20239-1000, 202-287-4113.

Device for hearing impaired: 202-287-4097.

[FR Doc. 86-12993 Filed 6-9-86; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 111
Tuesday, June 10, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Neighborhood Reinvestment Corporation	4

1

COMMISSION ON CIVIL RIGHTS

PLACE: 1121 Vermont Avenue, NW., Washington, DC. Room 512.

DATE AND TIME: Thursday, June 12, 1986, 9:00 a.m.—5:00 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda.

II. Approval of Minutes of Last Meeting.

III. Staff Director's Report for May:

A. Status of Funds,

B. Personnel Report,

C. Office Directors' Reports.

IV. Recent Activity Against Citizens and Residents of Asian Descent.

V. The Economic Status of Euroethnic Americans.

VI. Delaware SAC Report—Report of a November 1984 Conference.

VII. Civil Rights Developments in the Mid-Atlantic Region.

FOR FURTHER INFORMATION PLEASE CONTACT: Barbara Brooks, Press and Communications Division (202) 376-8314.

William H. Gillers,
Solicitor.

June 6, 1986.

[FR Doc. 86-13111 Filed 6-6-86; 10:28 am]

BILLING CODE 6335-01-M

2

FEDERAL COMMUNICATION COMMISSION

Additional Item To Be Considered at Open Meeting, Thursday, June 5th

June 4, 1986.

The Federal Communications Commission will consider an additional item on the subject listed below at the Open Meeting scheduled for 9:30 a.m., Thursday, June 5, 1986, in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Mass Media—2—Title: Amended request for a special temporary authorization to be issued to a trustee, filed by Macfadden Acquisition Corp. as a first step in its attemp to acquire control of John Blair & Company, a Commission licensee. Summary: The Commission will consider an amended request for a special temporary authorization filed by Macfadden Acquisition Corp., and opposing pleadings filed by John Blair & Company and others.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission June 4, 1986. Commissioners Fowler, Chairman; Quello, Dawson and Patrick voting to consider this additional item.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 86-13142 Filed 6-6-86; 12:34 pm]

BILLING CODE 6712-01-M

3

FEDERAL LABOR RELATIONS AUTHORITY

TIMES AND DATES: Tuesday, June 24, 1986, 9:00 a.m. to 5:00 p.m.; Thursday, June 26, 1986, 9:00 a.m. to 5:00 p.m.

PLACE: 500 C Street, SW., Washington, DC, Room 229.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED: In conjunction with a review of changes in case-processing procedures suggested by various Federal agencies, labor organizations representing Federal employees, and individuals, the Federal Labor Relations Authority is requesting oral and/or written comments concerning issues involved in four major regulatory revisions it is considering. The revisions and the issues on which the FLRA is seeking comments are as follows:

Revision 1: Delegation of the FLRA's authority to decide unfair labor practice cases to its Administrative Law Judges.

Issues: (1) Should the FLRA exercise its power under section 7105(d), (e), and (f) of the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7105, to delegate its decisionmaking authority in unfair labor practice (ULP) cases to its Administrative Law Judges (ALJ's)?

(2) What should the effective date of such a delegation be? Should the delegation apply to (a) charges filed, (b) complaints issued, or (c) decisions of ALJ's issued on and after the effective date?

(3) Should the delegation extend to all issues which may be litigated and decided in a ULP proceeding? Should some issues be reviewable by the Authority in all instances where timely review is sought by a party? If so, what issues?

(4) Should the FLRA's Rules and Regulations be amended to preclude the transfer of ULP cases directly to the FLRA based upon a stipulated record where no material issue of fact exists?

(5) What criteria should be applied to determine whether the ALJ's decision should be accepted for review? Should the FLRA use the same criteria it uses in determining whether to grant an application for review of representation case decisions issued by Regional Directors?

(6) What should be the precedential significance, if any, attached to an ALJ decision when (a) no timely application for review was filed, or (b) a timely application for review was filed only as to certain of the ALJ's findings and conclusions?

Revision 2: Providing discovery in unfair labor practice proceedings.

Issues: (1) The FLRA's Rules and Regulations, 5 CFR 2423.19, now authorize the ALJ presiding at a hearing to (a) grant requests for subpoenas, (b) order the taking of depositions, (c) order responses to written interrogatories, and (d) take any other action deemed necessary and not prohibited by the regulations. Should discovery be permitted in ULP proceedings prior to the opening of a hearing before an ALJ? If so, to what extent should the parties be subject to discovery?

(2) If discovery is permitted prior to a hearing, at what stage whould it be permitted?

(3) If discovery is permitted prior to a hearing, what should be the safeguards to protect the identity of individuals who provide statements and information during the investigation of charges in order to assure the FLRA's ability to obtain relevant information?

(4) How should the cooperation of all parties in the discovery process be assured? What sanctions or enforcement mechanisms should be used?

Revision 3: Requiring Federal agencies to include in their written assertions of nonnegotiability the specific reasons for making such assertions, including relevant citations, and labor organizations to include in their petitions for review of negotiability issues their specific arguments for the negotiability of the proposals in dispute, including relevant citations.

Issues: (1) Should the FLRA require Federal agencies to include in their written assertions of nonnegotiability the specific reasons for making the assertions, including relevant citations? Should the FLRA require labor organizations to include in their petitions for review of negotiability issues their specific arguments for the negotiability of the proposals in dispute, including relevant citations?

(2) Would these requirements be unduly burdensome on agency and union representatives? Are there alternative ways to promote bilateral discussions at the local level concerning the negotiability of collective bargaining proposals? If so, what are the alternatives?

Revision 4: Establishing a pilot program providing written negotiability determinations by FLRA staff members which are appealable to the FLRA Members.

Issues: (1) Should the FLRA establish a pilot program to provide parties with written negotiability determinations by FLRA staff members which are appealable to the FLRA Members? Would this alternative approach to negotiability decisionmaking promote the resolution of negotiability disputes?

(2) If such a pilot program is established, what criteria should be used to select the cases in which the staff determinations are provided?

(3) What time limits should be provided for appeal of a written negotiability determination by a staff member?

(4) What should be the precedential significance, if any, of a written negotiability determination by a staff member where (a) no timely appeal of the determination is filed, or (b) a timely appeal of the determination is filed only as to certain proposals?

Any person desiring to speak at these meetings should notify Harold D. Kessler, Director of Case Management, FLRA, 500 C Street, SW., Washington, DC 20424, in writing. Notifications must be received by the FLRA by June 16, 1986, and should state (1) whether the person is representing an agency or labor organization and if so, which agency or organization; (2) the issues which will be addressed and the length of time requested for the oral presentation; and (3) the address and telephone number of the person desiring to speak at the meeting. Persons requesting opportunities to speak at the meetings will be contacted to schedule their participation.

Written comments concerning the issues may be submitted in addition to or in lieu of an oral presentation. Two copies of written comments should be submitted to Harold D. Kessler, Director of Case Management, FLRA, 500 C Street, SW., Washington, DC 20424, and must be received by the FLRA by July 11, 1986.

FOR FURTHER INFORMATION PLEASE CONTACT: Harold D. Kessler, (202) 382-0715.

Dated: June 5, 1986.

Jerry L. Calhoun,
Chairman.

Henry B. Frazier III,
Member.

John C. Miller,
General Counsel.

FR Doc. 86-13080 Filed 6-6-86; 9:18 am]

BILLING CODE 6727-01-M

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NEIGHBORHOOD REINVESTMENT CORPORATION

TIME AND DATE: 2:30 p.m. Friday, June 6, 1986.

PLACE: Federal Reserve Bank of Richmond, 701 East Byrd Street, Richmond, VA 23261.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Timothy McCarty, Director of Communications, 376-2623.

AGENDA:

I. Call to order and remarks of the Vice Chairman.

II. Approval of Minutes, March 17, 1986.

III. Executive Director's Activity Report.

IV. Election of Officers and Appointment of Assistant Secretary.

V. Approval of Board Committee Appointments:

A. Audit Committee,

B. Budget Committee,

C. Personnel Committee.

VI. Budget Committee Report.

VII. Treasurer's Report.

Carol J. McCabe
Secretary.

[FR Doc. 86-13061 Filed 6-5-86; 4:07 pm]

BILLING CODE 7570-01-M

federal register

Tuesday
June 10, 1986

Part II

Environmental Protection Agency

40 CFR Part 300

Amendment to National Oil and Hazardous Substances Contingency Plan; National Priorities List; Final Rule and Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SW-FRL-2973-2]

Amendment to National Oil and Hazardous Substances Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is amending the National Oil and Hazardous Substances Contingency Plan ("NCP"), which was promulgated on July 16, 1982, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and that the list be revised at least annually. The National Priorities List ("NPL"), initially promulgated as Appendix B of the NCP on September 8, 1983, constitutes this list and is being revised today by the addition of 170 sites to the final NPL. EPA has reviewed public comments on the listing of these sites and has decided that they meet the eligibility requirements of the NPL.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be July 10, 1986. CERCLA section 305 provides for a legislative veto of regulations promulgated under CERCLA. Although INS v. Chadha, 462 U.S. 919, 103 S. Ct. 2764 (1983), cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representative. If any action by Congress calls the effective date of this regulation into question, the Agency will publish a notice of clarification in the **Federal Register.**

ADDRESSES: Addresses for the Headquarters and Regional dockets follow. For further details on what these dockets contain, see the Introduction to the **SUPPLEMENTARY INFORMATION** section of this preamble.

Denise Sines, Headquarters, U.S. EPA CERCLA Docket Office, Waterside Mall Subbasement, 401 M Street, SW., Washington, DC 20460, 202/382-3046

Peg Nelson, Region 1, U.S. EPA Library, Room E121, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223-5791

Carole Peterson, Region 2, Site Investigation & Compliance Branch, 26 Federal Plaza, 7th Floor, Room 737, New York, NY 10278, 212/264-8677

Diane McCreary, Region 3, U.S. EPA Library, 5th Floor, 841 Chestnut Bldg., 9th & Chestnut Streets, Philadelphia, PA 19107, 215/579-0580

Gayle Alston, Region 4, U.S. EPA Library, Room G-6, 345 Courtland Street, N.E., Atlanta, GA 30365, 404/347-4216

Lou Tilley, Region 5, U.S. EPA Library, 16th Floor, 230 South Dearborn Street, Chicago, IL 60604, 312/353-2022

Barry Nash, Region 6, InterFirst II Bldg., 1201 Elm Street, Dallas, TX 75270, 214/767-4075

Connie McKenize, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/236-2828

Dolores Eddy, Region 8, U.S. EPA Library, 999 18th Street, Suite 1300, Denver, CO 80202-2413, 303/293-1444

Jean Circiello, Region 9, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Francisco, CA 94105, 415/974-8076

Joan Shafer, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop 525, Seattle, WA 98101 206/442-4903

FOR FURTHER INFORMATION CONTACT: Jane Metcalfe, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548E), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Phone (800) 424-9346 (or 382-3000 in the Washington, DC, metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Purpose and Implementation of the NPL
III. Process for Establishing and Updating the NPL
IV. Eligibility
V. Generic HRS Issues
VI. Disposition of Proposed Sites
VII. Deletion of Final Sites
VIII. Contents of the NPL
IX. Regulatory Impact Analysis
X. Regulatory Flexibility Act Analysis

I. Introduction

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601-9657 ("CERCLA" or the "Act"), and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180) and amendments to the NCP on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912). The NCP and its amendments implement responsibilities and authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, and contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purposes of taking remedial action and, to the extent practicable, take into account the potential urgency of such action for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to releases or threats of releases on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)). Criteria for determining priorities for possible remedial actions financed by the Hazardous Response Trust Fund established under CERCLA are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA requires that these criteria be used to prepare a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States, and that to the extent practicable, at least 400 sites be designated on this National Priorities List (NPL). An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has been expanded since then (see 49 FR 19480, May 8, 1984; 49 FR 37070, September 21, 1984; 50 FR 6320, February 14, 1985; and 50 FR 37630, September 16, 1985). On March 7, 1986 (51 FR 7935), EPA published a notice to delete eight sites from the NPL (see section VII of this preamble). Earlier, the Agency had proposed to add another 309 sites to the NPL (see 49 FR 40320, October 15, 1984; 50 FR 14115, April 10, 1985; and 50 FR 37950, September 18, 1985). The proposed update #5 rulemaking announced elsewhere in today's **Federal Register** adds 45 proposed sites to the NPL. In a second notice in today's **Federal Register**, the Agency is soliciting additional comments on 5 previously proposed sites (50 FR 6320). Today's rule adds 170 of the remaining proposed sites to the NPL, including 20 from the two 1985 proposals—Update #3 and Update #4—on which no comments were received. This brings the number of final sites on the NPL to 703, with an additional 185 (including 47 Federal

facilities) in the proposed category, for a total of 888 final and proposed sites.

Following the October 15, 1984, proposal, EPA carefully considered public comments submitted during the comment period and made some modifications in this final rule in response to those comments. Responses to major NPL policy comments are addressed in this preamble, as are generic HRS scoring comments. Responses to site-specific HRS comments are presented in the "Support Document for the Revised National Priorities List—1986," which is a separate document available in the EPA dockets in Washington, D.C., and the Regional Offices (see **ADDRESSES**).

Public Docket Information

The Headquarters public docket for the NPL will contain Hazard Ranking System (HRS) score sheets for each final site, a Documentation Record for each site describing the information used to compute the scores, a list of document references and the "Support Document for the National Priorities List—1986." The Headquarters public docket is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays. Requests for copies of the documents from the Headquarters public docket should be directed to the EPA Headquarters docket office. The HRS score sheets and the Documentation Record for each site in a particular EPA Region will be available for viewing in that Regional Office when this notice is published. The Regional dockets will also contain documents referenced in the Documentation Record which contain the background data EPA relied upon in calculating or evaluating the HRS scores and a copy of the "Support Document for the Revised National Priorities List—1986." Copies of these background documents may be viewed in the appropriate Regional Office and copies may be obtained from each Regional docket. Documents with some relevance to the scoring of each site, but which were not used as references, may also be viewed and copied by arrangements with the appropriate EPA Regional Office. Requests for HRS score sheets, Documentation Records, background documents and copies of the Support Document should be directed to either Headquarters or the appropriate Regional Office docket (see Addresses section). An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of these comments.

Organization of the Preamble

Section II of this preamble discusses the purpose and implementation of the NPL. The process EPA uses for the development of this rulemaking, and of the NPL in general, is discussed in Section III. NPL eligibility policies and eligibility issues raised by commenters are addressed in Section IV of this preamble. Section V addresses generic HRS issues, while Section VI summarizes score changes and discusses and disposition of the previously proposed sites. Deletion of sites from the NPL is discussed in Section VII. Section VIII provides information on the contents of the final rulemaking. Finally, EPA's regulatory impact analysis and Regulatory Flexibility Act analysis are discussed in Sections IX and X, respectively.

II. Purpose and Implementation of the NPL

Purpose

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d. Sess. 60 (1980)):

> The NPL serves primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation, to assess the nature and extent of the public health and environmental risks associated with the site, and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake response actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. A site need not be on the NPL to be the subject of CERCLA-financed removal actions, actions brought pursuant to section 106 or 107(a)(4)(b) of CERCLA, or remedial investigations/feasibility studies.

Implementation

EPA's policy is to pursue cleanup of hazardous waste sites using the appropriate response and/or enforcement actions which are available to the Agency, including authorities other than CERCLA. Publication of sites on the NPL will serve as notice to any potentially responsible party that the Agency may initiate Fund-financed response action. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, or whether to proceed directly with Fund-financed CERCLA response actions and seek recovery of response costs after cleanup. To the extent feasible, once sites are listed on the NPL, EPA will determine high-priority candidates for either Fund-financed response action or enforcement action through both State and Federal initiative. These determinations will take into account which approach is more likely to most expeditiously accomplish cleanup of the site while using the Fund's limited resources as efficiently as possible.

Funding of response actions for sites will not necessarily take place in the same order as the sites' ranking on the NPL. In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities. The information collected to develop HRS scores is not sufficient in itself to determine the appropriate remedy for a particular site. EPA relies on further, more detailed studies to determine what response, if any, is appropriate.

These studies will take into account the extent and magnitude of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to conduct an Agency response action at some sites on the NPL because of more pressing needs at other sites, or because an enforcement action may instigate or force private

party cleanup. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant response action.

Revisions to the NPL such as today's rulemaking may move some previously listed sites to a lower position on the NPL. If EPA has initiated action such as a remedial investigation or feasibility study (RI/FS) at a site, the Agency does not intend to cease such actions in order to determine if a subsequently listed site should have a higher priority for funding. Rather, the Agency will continue funding site studies and remedial actions once they have been initiated, regardless of whether higher-scoring sites are later added to the NPL.

The NPL does not determine priorities for removal actions; EPA may take removal actions at any site, whether listed or not, that meets the criteria of §§ 300.65–300.67 of the NCP. Likewise, EPA may take enforcement actions under applicable statutes against responsible parties regardless of whether the site is listed on the NPL, although, as a practical matter, the focus of EPA's enforcement actions has been and will continue to be on NPL sites.

A site cannot undergo Fund-financed remedial action until it is placed on the final NPL. However, an RI/FS can be performed at proposed sites pursuant to the Agency's removal authority under CERCLA, as outlined in § 300.68(a)(1) of the NCP. Section 101(23) of CERCLA defines "remove" or "removal" to include "such actions as may be necessary to monitor, assess and evaluate the release or threat of release . . ." The definition of "removal" also includes "action taken under Section 104(b) of this Act . . ." Section 104(b) authorizes the Agency to perform studies, investigations, and other information-gathering activities.

The Agency may elect to conduct an RI/FS at a proposed NPL site in preparation for a possible Fund-financed remedial action in a number of circumstances, such as when the Agency believes that delay in commencing the studies may create unnecessary risks to human health or the environment. In making such a decision, the Agency assumes the risk that after consideration of public comments and the consistent application of the HRS, it is possible that the proposed site might not qualify for the NPL. In assuming this risk, the Agency has determined that the desirability of expediting remedial action through the initiation of the investigation stage prior to placing a site on the NPL outweighs the risk of expending a limited amount of Fund monies for the RI/FS.

III. Process for Establishing and Updating the NPL

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. Those sites that score 28.50 or greater on the HRS are eligible for listing. In addition, States may designate a single site as the State top priority. EPA may also place sites on the NPL pursuant to § 300.66(b)(4) of the NCP.

States have the primary responsibility for identifying sites, computing HRS scores, and submitting candidate sites to the EPA Regional Offices. EPA Regional Offices conduct a quality control review of the States' candidate sites, and may assist in investigating, sampling, monitoring, and scoring sites. Regional Offices may consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. The Agency then proposes the new sites that meet the criteria for listing and solicits public comment on the proposal. Based on these comments and further review by EPA, the Agency determines final scores and promulgates those sites that still qualify for listing.

On October 15, 1984, EPA proposed NPL Update #2 (49 FR 40320). All of the 244 proposed sites received HRS scores of 28.50 or higher. The cut-off score of 28.50 was the same cut-off score chosen for the previous NPL rulemakings.

The public comment period on the October 15, 1984, proposed rule ended December 14, 1984. To the extent practicable, EPA considered late comments received after the close of the formal comment period. EPA evaluated all comments received by May 7, 1986. Based on the comments received on the proposed rule, as well as further investigation by EPA and the States, EPA recalculated the HRS scores for individual sites where appropriate. EPA's response to site-specific public comments and explanations of any score changes made as a result of such comments are addressed in the "Support Document for the Revised National Priorities List—1986." This document is available for review in the EPA dockets in Washington, D.C., and the Regional Offices (see Addresses). EPA's response to comments on NPL eligibility issues is included in Section IV of this preamble, while comments on generic HRS issues are discussed in Section V.

IV. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases by expressly excluding some substances from the definition of "release". In addition, as a matter of policy, EPA may choose not to use CERCLA to respond to certain types of releases because other authorities can be used to achieve cleanup of these releases. Where such other authorities exist, and the Federal government can undertake or enforce cleanup pursuant to a particular established program, listing on the NPL to determine the priority or need for response under CERCLA may not be appropriate. Therefore, EPA has chosen not to consider certain types of sites for the NPL even though CERCLA may provide authority to respond. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may consider placing them on the NPL.

NPL eligibility policies of particular relevance to this final rule are discussed below and cover Federal facility sites, Resource Conservation and Recovery Act (RCRA) sites, mining waste sites, pesticide-application sites, and radioactive material sites.

Releases From Federal Facilities

CERCLA Section 111(e)(3) prohibits use of the Trust Fund for remedial actions at Federally-owned facilities. However, pursuant to § 300.66(e)(2) of the NCP, amended on November 20, 1985 (50 FR 47912), the Agency can place Federal facilities on the NPL.

Prior to the proposal of NPL Update #2, EPA did not list any sites on the NPL where the release resulted solely from a Federal facility, regardless of whether contamination remained on-site or had migrated off-site. However, based on public comments received from previous NPL announcements, EPA proposed 36 Federal facilities for NPL Update #2 and solicited comments on the listing of Federal facilities on the NPL. All general comments received in response to that solicitation are addressed in the preamble to the **Federal Register** notice for the promulgation of the NCP amendments and the "Response to Comments Document—October 10, 1985" that accompanied that rulemaking. This document is available in the Headquarters public docket.

In a future rulemaking, EPA will add Federal facility sites to a separate section of the NPL and will provide the response categories and cleanup status codes for those sites. The same technical criteria that qualify non-

Federal sites for the NPL will be used to qualify Federal sites.

EPA has not completed its review of the public comments received on the 36 Federal facility sites proposed for this NPL update and, therefore is deferring rulemaking on these sites at this time.

Releases From Resource Conservation and Recovery Act (RCRA) Sites

A. Background

Since the first NPL final rule (48 FR 40658, September 8, 1983), it has been the Agency's policy to defer placing sites on the NPL that can be addressed by RCRA Subtitle C corrective action authorities. Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), only releases to ground water from surface impoundments, waste piles, land treatment areas, and landfills that received RCRA hazardous wastes after July 26, 1982, and did not certify closure prior to January 26, 1983, (the effective date of the RCRA regulations for permitting land disposal facilities) were subject to corrective action requirements under Subtitle C. Therefore, these units were not eligible for listing unless they were abandoned, lacked sufficient resources or RCRA corrective action requirements could not be enforced.

The enactment of HSWA greatly expanded RCRA Subtitle C corrective action authorities. For example, under section 3004(u), hazardous waste treatment, storage and disposal facilities seeking RCRA permits must address all releases of hazardous constituents to any medium from solid waste management units, whether active or inactive. HSWA also provided new authority in Section 3004(v) to address releases that have migrated beyond the facility boundary if the permission of the owner of the affected property can be obtained. In addition, section 3008(h) authorizes EPA to compel corrective action or any response necessary to protect human health or the environment when there is or has been a release of hazardous waste at a RCRA interim status facility.

In light of the new authorities, the Agency proposed in the preamble to the April 10, 1985, proposed rule (50 FR 14118), a revised policy for listing of RCRA-related sites on the NPL. Under the proposed policy, listing on the NPL of RCRA-related sites would be deferred until the Agency determined that RCRA corrective measures were not likely to succeed due to factors such as: (1) The inability or unwillingness of the owner/operator to pay for such activities; (2) the inadequacies of the financial responsibility guarantees to pay for such costs; and (3) EPA or State priorities for addressing the sites under RCRA. In addition, the Agency indicated that it intended to apply the RCRA listing policy to RCRA sites that were currently proposed or promulgated on the NPL and, in appropriate cases, delete sites from the NPL.

The Agency has evaluated the comments received on the proposed RCRA listing policy. Today, EPA is deciding and implementing major components of the final RCRA listing policy. Elsewhere in today's **Federal Register**, the Agency is proposing and requesting comments on additional components of the policy. A discussion of the policy follows.

B. Components of the Final RCRA Listing Policy

The final Agency policy is generally consistent with the proposal and with the Agency's previous RCRA listing policy. Sites not subject to RCRA Subtitle C requirements will remain eligible for the NPL. Examples include facilities that ceased treating, storing or disposing of hazardous wastes prior to November 19, 1980 (the effective date of Phase I of the RCRA regulations) and sites at which only materials exempted from the statutory or regulatory definition of solid waste or hazardous waste are managed. RCRA hazardous waste handlers to which Subtitle C corrective action authorities do not apply, such as hazardous waste generators or transporters not required to have interim status or a final RCRA permit, also remain eligible for the NPL. In most situations, listing of sites with releases that can be addressed under the RCRA Subtitle C corrective action authorities will be deferred.

Although sites that can be addressed by RCRA Subtitle C corrective action authorities generally will not be placed on the NPL, the Agency believes that certain sites subject to Subtitle C corrective action requirements should be listed if they meet all of the other criteria for listing (e.g., an HRS score of 28.5 or greater).

As noted in the preamble to proposed NPL Update #3 (50 FR 14110, April 10, 1985), the Agency is concerned about owners or operators who are unwilling or unable to pay for corrective action and related activities. If an owner or operator appears to lack the financial resources to undertake necessary responses, it may be appropriate to use CERCLA authorities to protect human health or the environment. It may also be appropriate to use CERCLA authorities to address facilities at which necessary corrective actions under RCRA are unlikely to be performed. The Agency has identified three categories of facilities that meet these criteria: (1) Facilities owned by persons who are bankrupt, (2) facilities that have lost RCRA interim status and for which there are additional indications that the owner or operator will be unwilling to undertake corrective action; and (3) sites, analyzed on a case-by-case basis, whose owners or operators have shown an unwillingness to undertake corrective action. Reasons for including sites on the NPL which fall into these categories are discussed below.

1. *Bankruptcy.* Once an entity is in bankruptcy, the entity's assets are protected by the courts. In such situations, the Agency does not have adequate assurance that funds will be available in a timely manner for response actions. Therefore, RCRA facilities that are bankrupt will be eligible for listing.

2. *Loss of authorization to operate/probable unwillingness to carry out corrective action.* RCRA Interim Status facilities lose authorization to operate when interim status is terminated (1) under RCRA section 3008(h), (2) by permit denial under RCRA section 3005(c), or (3) by operation of RCRA section 3005(e). For example, interim status is terminated under section 3005(e) when an owner or operator cannot or will not certify compliance with applicable ground water monitoring and financial responsibility requirements and submit a permit application. Permits are denied under section 3005(c) if the owner or operator has failed to submit an acceptable Part B permit application. It is likely that many of these interim status facilities that have lost authorization to operate may not be willing to carry out corrective action; facilities where this is the case may be placed on the NPL. In determining whether an owner/operator is not likely to be willing to carry out corrective action, the Agency will consider the compliance history of the facility, including particularly the existence of multiple or significant violations and the numbers and types of final enforcement actions taken against the facility.

3. *Case-by case determinations of unwillingness.* When EPA proposed to revise its policy with respect to listing RCRA sites on the NPL, the Agency explained that proposed or final sites at which remedial investigations/feasibility studies had been initiated might not be removed from the NPL. The Agency recognized that it might be disruptive to abandon CERCLA activities in some or all of these

situations. Several sites are being added to the NPL based upon that aspect of the proposed policy.

At two sites that were included in proposed NPL Update # 2, Fund-financed remedial planning is now in progress. These sites were proposed before the enactment of HSWA and met all of the NPL eligibility requirements at the time they were proposed, including the RCRA listing policy then in effect. The expanded RCRA Subtitle C corrective action authorities established by HSWA did not apply at the time of the proposals; thus, CERCLA appeared to be the only authority that could effectuate remedial action if it were necessary. Based on the conditions at those two sites, EPA found it appropriate to begin the remedial planning process. The owners or operators of these sites were offered the opportunity to undertake the remedial planning activities themselves but did not agree to do so. At one site, the owner/operator also declined to pay for other response activities that EPA advised the owner/operator were appropriate to mitigate threats to public health and the environment.

The Agency's final and proposed RCRA listing policy announced today is based in part on the conclusion that RCRA sites should be placed on the NPL if their owners or operators exhibit an unwillingness or inability to undertake corrective action. At these two sites, the Agency has concluded that the owner/operators' unwillingness to undertake remedial planning and/or removal activities is an indication that the owners or operators would also be unwilling to undertake remedial actions if they are required. Therefore, the rationale for placing them on the NPL now is the same rationale that underlies the basic policy announced today. Consequently, the Agency has concluded that listing these two sites at this time is appropriate.

As explained below, the Agency will continue to develop more precise criteria which identify those RCRA sites which should be listed on the NPL based upon the owner/operators' unwillingness to undertake corrective action. Until those criteria are delineated more clearly, the Agency believes it appropriate to place or retain sites on the NPL on a case/by-case basis. This is particularly true for sites where CERCLA-financed activities are now in progress, since developing more precise criteria to determine unwillingness may take a substantial period of time.

Once a complete, final RCRA listing policy is developed, this component of the RCRA policy will be withdrawn. Sites will be addressed under RCRA in the first instance unless they fit within one of the exception categories that are included in the complete final policy.

C. Components of Proposed RCRA Policy

In addition to the circumstances identified in the final portion of the RCRA listing policy, there are other situations for which the exercise of RCRA authorities may not result in expeditious or adequate remedial action and, therefore, NPL eligibility should also be considered. For example, even though an owner/operator is not bankrupt or has not lost authorization to operate, he may have failed to comply sufficiently with a permit condition or an order issued pursuant to RCRA authorities or may not have adequately closed a facility in accordance with an approved closure plan. The Agency is considering providing more specificity to the third component of today's policy by proposing in a separate notice of today's **Federal Register** that sites falling into the categories below would be eligible for the NPL.

1. *Facilities whose owners or operators have not complied adequately with an administrative order, judicial action, or a RCRA permit condition requiring response or corrective action.* As a general matter, the Agency would prefer to use RCRA permit or enforcement authorities to secure corrective actions at RCRA sites. When a facility owner fails to adequately carry out corrective action activities, there is little assurance that releases will be addressed in an appropriate manner. Such facilities should be eligible for listing in order to make CERCLA authorities available expeditiously. Although the Agency has not previously taken into account compliance with corrective action requirements in a permit or a federal enforcement action when considering a site for listing, Congress deliberately expanded the scope of the RCRA corrective action authorities. Accordingly, it is appropriate for the Agency to rely on these authorities. When an owner/operator fails to comply adequately with a RCRA corrective action requirement, however, it means that CERCLA remedial action may be needed to protect human health and the environment. By making these facilities eligible for listing, the Agency provides that appropriate CERCLA-financed remedial action can occur expeditiously.

2. *Facilities whose owners or operators have not submitted or implemented an adequate closure plan.* Adequate closure of a RCRA facility is integrally related to prevention of future releases and often involves measures similar to those undertaken during corrective action, such as waste removal, excavation of contaminated soil and capping. Similarily, where an owner or operator is unwilling to carry out such activities there is a need to ensure that CERCLA will be available.

If the Agency decides to incorporate into the final RCRA listing policy a component that allows listing of sites in the two categories described above, an important issue will be how the Agency establishes that there has not been adequate compliance with RCRA requirements relating to corrective action or closure. If non-compliance is established through a determination by an administrative law judge or a court, there may be delays in employing CERCLA to respond to problems at these sites. It may be more appropriate, therefore, for the Agency to base its decision to list sites on the NPL under this criterion based upon the issuance of an administrative order or initiation of a judicial action to enforce corrective action requirements imposed by permit or order or in a closure plan. In a separate notice in today's **Federal Register**, the Agency specifically solicits comments on how and when it should determine that the likelihood of compliance with RCRA requirements is low enough that a RCRA site should be eligible for the NPL.

As explained above, the components of the Agency's policy with respect to sites that may be subject to RCRA corrective action are designed to ensure that RCRA authorities are employed first except where there are indications that an owner or operator is unwilling or unable to perform corrective action. The Agency has identified three categories of sites for which there are indications of unwillingness or inability to carry out corrective action and has announced that facilities in those categories will be eligible for the NPL. EPA may not have identified all types of sites for which the exercise of RCRA authorities may not result in timely and appropriate remedial action and invites commenters, in a separate notice in today's **Federal Register**, to suggest other categories of RCRA sites that should be considered eligible for the NPL. For example, additional categories that may merit inclusion are RCRA facilities whose owners or operators did not notify the appropriate authority that they treat, store, or dispose of RCRA Subtitle C hazardous waste or did not submit the required permit applications or who have otherwise indicated an unwillingness to undertake corrective action.

The Agency will consider supplementing the RCRA listing policy announced today if comments or the Agency's experience with the new policy demonstrate that additional categories of RCRA-related sites should be placed on the NPL to ensure appropriate and expeditious remedial action.

D. Application of the Final RCRA Policy to Currently Proposed Sites

The Agency is promulgating six RCRA sites today. These six sites fall within the scope of the final policy defining NPL-eligible RCRA sites. Four of the six sites are bankrupt and two sites, proposed prior to HSWA, meet the third criterion of the RCRA policy as explained above. The RCRA-related sites promulgated in this final rule are:

Bankrupt Sites:

- Interstate Lead Co. (ILCO), Inc., Leeds, Alabama
- Thermo-Chem, Inc., Muskegon, Michigan
- Whitmoyer Laboratories, Jackson Township, Pennsylvania
- American Creosote Works, Inc. (Jackson Plant), Jackson, Tennessee

Sites deemed unwilling to perform remedial action:

- Operating Industries, Inc., Landfill, Monterey Park, California
- L.A. Clarke & Son, Spotsylvania County , Virginia

The L.A. Clarke & Son site also appears to qualify under the second component of the final listing policy.

The remainder of the RCRA-related sites proposed in October 1984 will remain in proposed status until the Agency evaluates their RCRA status in order to determine whether they are eligible for the NPL based on this new policy. Elsewhere in today's **Federal Register**, in the notice describing the proposed components of the RCRA policy, EPA invites the owner/operators of the remaining 31 proposed facilities, and any other persons, to provide any information that would assist EPA in evaluating: (1) The facility's status under RCRA and (2) the relationship this information has to the final and proposed elements of the new RCRA policy discussed above.

E. Application of Policy to Final NPL Sites

The Agency plans to review the status of and apply this policy to RCRA sites that are already listed on the final NPL. NPL sites that are not subject to Subtitle C corrective action requirements or RCRA facilities that are eligible for the NPL based on the final or proposed policy announced today will continue to be listed on the NPL. The remaining sites will be deleted. Elsewhere in today's **Federal Register**, in a notice describing the proposed components of the RCRA policy, the Agency invites the owners or operators of facilities on the proposed or final NPL, or other persons, to provide information that would assist EPA in evaluating: (1) the facility's status under RCRA and (2) the relationship this information has to the final and proposed elements of the new RCRA policy

F. Federal Sites

Application of this policy with respect to Federal facilities will be addressed at a later date. The Agency is working to resolve a number of issues associated with Federal facilities and will coordinate application of this policy with those efforts.

G. Response to Public Comments on Proposed Policy for RCRA-Related Sites

On April 10, 1985, (50 FR 14110), the Agency proposed a policy for deferring listing of RCRA sites and for deletion from the NPL of RCRA sites currently proposed or promulgated on the NPL. The policy proposed at that time is summarized elsewhere in this preamble. The Agency received a number of comments on the April 1985 proposal and on the reiteration of the proposal in the September 1985 preamble to NPL Update #4. These comments can be summerized as falling within five broad categories:

- Support for the proposed policy
- Concern about flexibility in the proposed policy
- Suggested revisions to the proposed criteria for deferring the listing of RCRA facilities
- Revisions to the proposed criteria for deleting RCRA facilities from the NPL
- Suggested need for greater flexibility in dealing with sites under RCRA

Responses to the significant comments on the policy are presented below.

1. *Support for proposed policy.* All but two commenters specifically stated that they supported the policy proposed by the Agency, and the other two comments generally were favorable. (One raised a technical issue about the proposed deletion criteria; the other stated that, while the proposed policy was reasonable and that there was no objection to it, the Agency needed to retain the flexibility to deal with RCRA sites under CERCLA first when circumstances warranted such an approach.)

The commenters presented four basic reasons for supporting the proposed policy:

- Policy better reflects the intent of both CERCLA and HSWA
- Policy preserves the limited CERCLA Trust Fund monies for their intended use
- HSWA eliminates the need for listing most RCRA sites on the NPL
- RCRA authorities provide more effective and efficient means for cleanup of RCRA sites than CERCLA authorities

Comment: Commenters stated that they supported the proposed policy because they believed that it reflects the intent of both CERCLA and HSWA. Several commenters asserted that CERCLA was intended to address only those abandoned or inactive sites for which there is no responsible party capable of assuming financial obligations for corrective action. These commenters noted that by deferring NPL listing of RCRA sites, the limited CERCLA Trust Fund monies would be preserved for use at abandoned or inactive sites. Commenters also indicated that deferring listing of RCRA sites would provide an incentive for facility owner/operators to conduct cleanup activities.

Response: While the Agency agrees that responsible parties should bear the cost of response activities, the Agency does not agree that CERCLA is intended to address only those abandoned or inactive sites for which there is no responsible party able to assume financial obligation for response costs. CERCLA authority exists regardless of whether responsible parties can be identified. It is appropriate to expend CERCLA funds to respond to releases at RCRA sites where there is a responsible party who is unwilling or unable to undertake response actions. Section 107 of CERCLA specifically provides for the recovery, from responsible parties, of Fund monies spent for response actions in such situations.

Furthermore, the listing of a site on the NPL does not mean that Fund monies will automatically be spent for remedial action or study at that site. In many instances, these activities will still be funded by the responsible party. The Agency agrees, however, that by addressing sites under RCRA that appear likely to be cleaned up adequately through the use of RCRA authorities, more CERCLA funds may be available for sites that cannot be addressed under RCRA. This is one of the purposes of the policy announced today. The Agency also agrees and hopes that today's policy may act as an incentive to owners/operators of RCRA

sites to comply with RCRA requirements and, in particular, to take whatever corrective actions are appropriate without the need for the Agency to place their sites on the NPL.

Comment: In supporting the proposed policy, a few commenters noted that HSWA effectively eliminates any distinction in RCRA authority with regard to regulated and nonregulated units at a RCRA facility. The commenters indicated that HSWA provides ample authorities to ensure that corrective actions are conducted at facilities having RCRA permits or interim status. As a result, the commenters stated that there was no longer any reason to continue the current NPL policy of listing those RCRA facilities where a significant portion of a release appeared to originate from a nonregulated unit. These commenters indicated that the Agency should first apply its RCRA authorities to these facilities before proceeding under CERCLA.

Response: The Agency agrees that there is no longer a reason for distinguishing releases at regulated units from other releases that can be addressed under the expanded HSWA authorities. Today's policy eliminates this distinction.

Comment: Some commenters expressed support for the proposed policy because they believed it would be more effective and efficient to use RCRA authorities, rather than CERCLA authorities, to clean up RCRA facilities. They indicated that dealing with RCRA facilities under the RCRA program would avoid duplication of technical review and enforcement efforts under the CERCLA program. This would save time and money for both the Agency and facility owners/operators and ensure that facilities are addressed in a consistent and uniform manner. One commenter further stated that by deferring the listing of Subtitle C commercial waste management facilities, these facilities would be more likely to remain solvent (and thus pay for their own corrective actions under RCRA) because generators would be more likely to send wastes to them if they were not listed on the NPL. This commenter also indicated that RCRA facilities would be better able to obtain insurance required for continued operation under Subtitle C if they were not listed on the NPL.

Response: The Agency agrees that it is generally more desirable to deal with RCRA facilities under RCRA authorities than under CERCLA authorities. This is the intent of the policy announced today. If facilities being deferred from listing do not ultimately have to be addressed under CERCLA, the policy is likely to reduce duplication of effort and save time and resources. Placing a site on the NPL does not impose liability upon anyone or necessarily result in the expenditure of funds for remedial action. It may be the case, however, that some RCRA facilities may derive some incidental benefits from not being placed on the NPL. However, the policy is not designed to protect the financial integrity of the owner/operator; it is designed to provide a frame work for most effectively addressing releases that may affect public health and the environment.

Comment: In supporting the proposed policy, one commenter stated that the only advantage of using CERCLA rather than RCRA is public notification through the NPL listing process. The commenter noted that RCRA imposes several public notification requirements. If public listing is deemed absolutely necessary, public listing of RCRA Part B applications receiving priority attention because of ground water problems could be implemented.

Response: EPA does not believe, at this time, that it is necessary to publish a separate list of RCRA facilities with ground water problems that are seeking Part B permits. The RCRA regulations now require public notification when new Part B permits are under consideration, when major modifications are proposed to a Part B permit, and when a facility is closing. At that time the affected public is given adequate notice of pending actions that would address releases to all media including ground water. In addition, the Agency will develop a public participation process for interim status corrective action orders.

2. *Concern about flexibility in the proposed policy.*

Comment: One commenter stated that while the proposed policy was reasonable, the Agency needs to retain some flexibility to address RCRA sites under CERCLA first when that approach would lead to a more expeditious remedy or would allow for a more equitable distribution of costs. The commenter stated that flexibility in the initial choice of authority would: (1) provide more options for site remedies, (2) ensure that the maximum number of parties are involved, and (3) possibly prevent a single company from shouldering an unexpected and inequitable share of cleanup responsibility since previous owners and generators may be drawn in as responsible parties under CERCLA.

Response: After examining this issue, the Agency has concluded that, to the extent practicable, it is better to identify in the policy those categories of RCRA facilities that are eligible for the NPL than to determine for each facility whether a release should first be addressed under RCRA or CERCLA. The policy announced today is designed to ensure that RCRA authorities are employed first at facilities that do not fall within the final eligibility categories. The policy allows all interested persons to know whether a particular facility may be considered eligible for NPL listing.

Under today's policy, the Agency foregoes some flexibility in the mechanisms for obtaining site remedies by limiting the use of CERCLA-financed remedial action to certain categories of RCRA sites. However, RCRA affords flexibility comparable to CERCLA for selecting technical remedies for responding to releases. Thus, employing RCRA corrective action authorities is expected to achieve protection of public health and the environment as effectively as remedies achieved under CERCLA. The Agency's goal is to develop RCRA corrective action requirements that remove inconsistencies between remedial actions performed under CERCLA and corrective actions performed under RCRA. Under the National Contingency Plan, the Agency now attempts to make the two programs consistent by having CERCLA actions meet RCRA technical requirements where they are applicable.

With regard to the commenter's concern about the equitable distribution of response costs, in situations where an owner/operator who has performed a response action feels that there are additional responsible parties who should share the response costs, the owner/operator may seek recovery of these response costs from other parties.

Comment: One commenter argued against allowing States the flexibility to decide whether to pursue remedies under CERCLA or RCRA. The commenter indicated that States will choose CERCLA rather than RCRA regulatory authorities if presented a choice, primarily because CERCLA provides funds to a State for its activities while RCRA does not.

Response: EPA, not the States, decides which sites are listed on the NPL. Only those sites that meet the eligibility criteria promulgated by EPA may be listed. States may recommend sites for the NPL, but State concurrence is not required for listing. The policy announced today specifies categories of RCRA facilities for which the Agency believes the use of CERCLA authorities is appropriate. CERCLA authorities will be used to address only those RCRA

facilities for which the exercise of RCRA authorities is not likely to result in appropriate cleanup activities.

3. *Suggested revisions to proposed criteria for deferring listing of RCRA facilities.* A number of commenters who indicated support for the proposed policy suggested criteria for use in determining when a RCRA facility is to be deferred from listing. The various criteria suggested by these commenters include the following:

- Financial ability of the facility owner/operator to carry out corrective action
- Willingness of the facility owner/operator to carry out corrective action
- Availability of sufficient legal guarantees to ensure that corrective action will be carried out
- Existence of ongoing litigation concerning corrective action at the facility
- Issuance or likelihood of issuance of a Subtitle C permit

For the most part, the commenters did not suggest specific means for evaluating these criteria (e.g., how financial inability would be determined). The criteria suggested by each commenter are discussed below.

Comment: One commenter suggested that listing should be deferred for sites meeting all of the following criteria:

- The owner/operator is a permittee or operator of an interim status site subject to the jurisdiction of RCRA,
- The owner/operator has admitted responsibility for performance of any needed corrective action at the facility,
- The owner/operator is not presently subject to any proceedings in bankruptcy, and
- The owner/operator is willing to agree to perform analytical work or remedial action pursuant to the applicable RCRA enforcement provisions and the enter into a consent decree with the appropriate agency upon these terms.

Response: The Agency believes that the policy announced today essentially incorporates the basic ideas suggested by this commenter: that where the owner/operator is not bankrupt and exhibits a willingness to undertake necessary response action, the facility should be deferred from listing on the NPL. However, it may not be desirable for the Agency to always defer listing a site at which an owner/operator has entered into an agreement to perform appropriate studies or remedial action. For example, the RCRA listing policy proposed elsewhere in today's **Federal Register** would address situations in which an owner/operator who may have entered into a consent agreement fails to comply adequately with its terms.

Comment: Another commenter stated that the proposed policy was more stringent than necessary and stated that deferral of NPL listing and deletion of proposed or promulgated sites from the NPL should occur if the site meets all of the following criteria:

- The facility has completed its Part B permit application,
- The Part B permit application, the permit itself if issued, or other relevant administrative or judicial consent decree addresses the releases which are the subject of the HRS score that led to eligibility for NPL listing in the first instance, and
- There is sufficient legal guarantee, by way of court order and/or enforceable permit terms and conditions, which assures that the releases to be addressed will in fact be addressed, and there is adequate financial assurance that the costs of such actions are within the means of the facility.

Response: The Agency believes that the final policy announced today incorporates some elements suggested by this commenter. The Agency, like the commenter, is concerned about the sufficiency of legal guarantees and the adequacy of financial assurances for corrective action. Pursuant to HSWA, the Agency is developing regulations under which facilities seeking RCRA permits will be required to demonstrate financial responsibility for corrective action.

The Agency does not, however, agree with the commenter's suggestion that only facilities that have completed RCRA Part B permit applications should be deferred from NPL listing. Pursuant to Section 3008(h) of RCRA, the Agency has the authority to require corrective action at interim status facilities. Interim status facilities that have not completed Part B permit applications should thus be deferred, like any other RCRA facility, unless the site falls within the categories of sites that are eligible for NPL listing under today's final and proposed policy. Facilities that have lost interim status under RCRA sections 3005(c), 3005(e), or 3008(h) are eligible for the NPL under the second component of today's final policy.

Comment: One other commenter stated that RCRA sites that are currently in litigation should not be placed on the NPL after a civil suit has been started. The commenter noted that NPL listing could be interpreted as an effort to influence the outcome of the case. The commenter indicated that listing is unnecessary in such cases because action is already taking place and the litigation serves the NPL purpose of identifying sites requiring action.

Response: The Agency does not agree that NPL listing would influence the outcome of litigation. As has been explained repeatedly in preambles to NPL rulemakings, the NPL is primarily an informational tool for use by the Agency in identifying sites that appear to present a significant risk to public health or the environment. Placing a site on the NPL is not intended to influence litigation over candidate sites. Rather, NPL listing is intended to guide the Agency in determining which sites warrant further investigation and consideration for Fund-financed response. Inclusion of a site on the NPL does not establish that the Agency necessarily will undertake response action, does not in itself reflect a judgment of the adequacy of the activities of any person, does not require any person to undertake any action, nor does it assign any liability to any person.

Furthermore, the Agency does not agree that listing is unnecessary for all sites that are in litigation. In those situations where the circumstances at the site which gave rise to the litigation reflect an unwillingness of an owner/operator to undertake necessary response activities, the Agency believes it may be appropriate to place the site on the NPL. The policy announced today reflects the Agency's concern about such situations. The second component of today's final policy considers the compliance history of sites that have lost interim status. On-going litigation would not prevent a site from being listed under this component of the policy if the criteria are met. The proposed policy announced elsewhere in today's **Federal Register** considers the adequacy of compliance in other situations, many of which will involve ongoing litigation.

Comment: Another commenter expressed support for deferring the NPL listing of RCRA facilities until it can be proven that corrective action would not be adequate under RCRA Subtitle C permit provisions, RCRA section 7003 imminent hazard provisions or CERCLA Section 106 abatement action provisions.

Response: Under the proposed component of the policy announced today, the Agency would place on the NPL, sites at which the owner/operators were not complying with RCRA Subtitle C permit conditions or with orders or judicial actions requiring corrective action. The Agency does not agree that inadequate compliance with corrective action requirements of permits, RCRA section 7003 orders or CERCLA section

106 orders should be the only basis for NPL listing of RCRA sites. Today's announcement describes other criteria to be used by the Agency for listing RCRA sites and the rationale for their inclusion in the policy.

Comment: One other commenter indicated that CERCLA should apply to RCRA facilities only in those situations which represent an imminent and substantial danger or where there are no responsible parties in a position to assume financial obligations.

Response: Reasons for not limiting today's policy to situations where there are no responsible parties capable of assuming financial obligations have previously been discussed. The Agency also does not agree that CERCLA should be employed at RCRA facilities only in situations which represent an imminent and substantial danger. Section 104 of CERCLA provides response authorities for situations in which there is a release which may not present an imminent and substantial danger to public health or welfare. It would be appropriate to take CERCLA action at RCRA facilities that are eligible for the NPL under today's policy, but at which imminent and substantial endangerment has not been demonstrated.

Comment: Another commenter supported the concept that sites that could be covered under other statutes, especially RCRA, need not and should not be listed on the NPL.

Response: As is discussed above, there are some RCRA sites that the Agency believes should be listed on the NPL. Some statutes administered by Agencies other than EPA provide authorities that can be used to effect remedial action at certain types of sites that can also be addressed under CERCLA. The Agency's current policies with respect to such sites have been discussed in previous NPL rulemakings. If changes in these policies are considered, public comments will be solicited at that time.

4. *Suggested revisions to proposed criteria for deleting RCRA facilities from the NPL.* Two commenters raised issues about the policy proposed for determining whether RCRA facilities currently proposed for or promulgated on the NPL should be deleted from the NPL.

Comment: One commenter supported the proposed criteria, but indicated that the Agency needs to explicitly state that RCRA sites will not be deleted from the NPL if remedial investigation/feasibility studies, remedial designs, remedial actions, or other similar actions have been initiated or implemented at the NPL site. The commenter indicated that this provision should apply to both Fund-finances activities as well as voluntary activities being conducted by responsible parties.

Response: As discussed elsewhere in this preamble, two RCRA-related sites at which there is ongoing Fund-financed remedial planning are today being listed on the NPL under the second component of the final RCRA listing policy.

The Agency does not, however, believe that there is any reason to retain on the NPL those RCRA sites at which voluntary (non-Fund-financed) activities are being conducted by responsible parties since the voluntary action indicates a willingness by these parties to undertake necessary response actions under RCRA. If these response actions are not adequately carried out, then these facilities would become eligible for NPL listing if the proposed components of today's policy, announced elsewhere in today's **Federal Register**, are adopted.

Comment: Another commenter indicated that the two criteria proposed for deleting sites from the NPL were more stringent than the criteria proposed for deferral of NPL listing. The commenter indicated that the criteria for deletion should be identical to the criteria for deferring NPL listing, except in those instances where some current obligations of the Fund, or the legal ability of the Fund to recover monies expended, may be adversely affected.

Response: The final and proposed components of the RCRA sites policy announced today that will be used in deleting RCRA sites from the NPL are identical to those components that will be used in deferring RCRA sites from NPL listing.

5. *Suggested need for greater flexibility in dealing with sites under RCRA.*

Comment: Two commenters supporting the policy proposal noted that in applying the policy, for those sites shifted to administration under RCRA rather than CERCLA, the Agency needs to retain flexibility in the remedial action standards being applied by the RCRA program to the different units at these sites. They stated that different standards needed to be applied to new or active RCRA units, inactive hazardous waste management units, and solid waste management units. One commenter indicated that RCRA standards should not be applied retroactively to pre-RCRA waste management units. The other stated that flexible, efficient, and cost-effective remedial responses should be applied to site-specific conditions at inactive units or solid waste management units rather than requiring these units to comply with standards applicable to new hazardous waste management units. Sections 3004(o) and 3005(j) of HSWA were cited as justification for distinguishing requirements at new and existing facilities, and Sections 4001 through 4010 were cited as justification for distinguishing among hazardous and non-hazardous waste management units.

One other commenter stated that by having RCRA-related facilities handled entirely through RCRA, artificial distinctions among releases based on the status of a solid waste management unit may be eliminated. The commenter noted that pollution conditions do not respect distinctions in time or place. The commenter indicated that it is far better from a legal, administrative, and technical perspective for an entire facility and all releases and potential releases from the facility to be dealt with in a uniform manner and by a single review.

Response: The Agency does not believe that these issues are relevant to listing of sites on the NPL. These issues are, however, relevant to the implementation of the RCRA corrective action program and are being considered in deliberations on the development of the corrective action program. These will be addressed when the Agency issues regulations and/or guidance on the implementation of the corrective action program.

Releases of Mining Wastes

The Agency's position, as discussed in the preamble to previous final NPL rulemakings (48 FR 40658, September 8, 1983; 49 FR 37070, September 21, 1984) is that mining wastes may be hazardous substances, pollutants or contaminants under CERCLA and, therefore, are eligible for listing on the NPL. This position was affirmed in 1985 by the United States Court of Appeals for the District of Columbia Circuit (*Eagle-Picher Industries, Inc.* v. *EPA*, 759 F. 2d 905, D.C. Cir. 1985).

In the past, EPA has included mining waste sites on the NPL. Eight mining sites were included in the October 15, 1984, Update #2 proposal. In subsequent proposals, however, EPA has considered whether mining sites could be addressed satisfactorily under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) before deciding whether to place them on the NPL. EPA has initiated discussions with the U.S. Department of the Interior (DOI) to determine if DOI or the State could take appropriate action under SMCRA to protect public health and the environment at these sites.

EPA is including six of the eight mining sites that were proposed for Update #2 in today's rulemaking. Four of these sites are being placed on the NPL because they are non-coal sites with mining operations that occurred after the enactment date of SMCRA (August 3, 1977); therefore these sites are neither regulated by SMCRA nor eligible for reclamation funds from the SMCRA Abandoned Mine Land Reclamation (AMLR) Program. These sites are:

- Eagle Mine, Minturn/Redcliff, Colorado
- Smuggler Mountain, Pitkin County, Colorado
- Uravan Uranium Project (Union Carbide Corp.), Uravan, Colorado
- Silver Mountain Mine, Loomis, Washington

One site Torch Lake, Houghton County, Michigan, is being placed on the NPL because the State of Michigan does not have an approved SMCRA program and, consequently, the site is not eligible for reclamation funds from the SMCRA AMLR program.

The Mayflower Tailings Site in Wasatch County, Utah, will not be placed on the NPL at this time because, in response to public comments, its HRS score dropped below 28.50. This site is discussed in more detail in the "Support Document for the Revised National Priorities List—1986."

The remaining two mining sites proposed in Update #2—Olson/Neihart Reservoir, Wasatch County, Utah and Sharon Steel (Midvale Tailings), Midvale, Utah—ceased mining before the enactment date of SMCRA and therefore may be eligible for reclamation funds under SMCRA. Until EPA explores this issue further, these sites remain in proposed status. EPA will announce in a future NPL rulemaking what relationship SMCRA activities will have to NPL listing decisions.

A number of comments were received on the proposal of these mining sites in Update #2. One commenter stated that Congress recognized the unique characteristics of mining wastes and expressly excluded mining wastes from EPA's regulatory authority under RCRA and CERCLA.

EPA disagrees with the commenter. The *Eagle-Picher* decision has affirmed the Agency's decision that mining wastes may be "hazardous substances, pollutants or contaminants" under CERCLA.

Several commenters stated that the HRS is biased against high-volume, low-hazard wastes, such as mining wastes. The commenter said EPA is unable to provide the evidence required by law that the HRS is a rational basis on which to rank mining sites for inclusion on the NPL.

The issue of bias against mining wastes has been raised by commenters in previous NPL rulemakings, and EPA's responses can be found in the preambles to these rulemakings (48 FR 40663, September 8, 1983; and 49 FR 37075, September 21, 1984). Specifically, EPA believes that there is ample evidence that the concentrations and amounts of pollutants and contaminants discharged by mining sites can and do pose a significant threat to public health and the environment. Mining sites tend to generate extremely large quantities of wastes. Thus, even though the concentration of hazardous substances in mining waste may be low, the total quantities of hazardous substances available to be discharged into the environment are often large. Furthermore, the waste-quantity factor in the HRS is only one factor, and is generally not as important as population, toxicity, and likelihood of a release. This relatively low emphasis on waste quantity reflects the fact that the HRS was designed to score a wide variety of releases and potential releases of hazardous substances, including mining sites.

Another commenter stated that the proposed listing of mining sites violates the Constitutional prohibition against ex post facto regulation and denies mining companies the due process protection of property rights guaranteed by the Fifth Amendment to the Constitution. The commenter also stated that listing mining sites on the NPL violates Executive Order 12291 by failing to consider the tremendous costs to the mining industry.

The Agency believes that the commenter's arguments are groundless. Placing a site on the NPL does not deprive any property owner of property, nor does it create liability or impose any costs. Listing on the NPL does not establish that EPA will necessarily undertake response action, nor does it require any action by any private party or determine liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not from the act of listing itself.

Releases of Pesticides Registered Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

The proposal of NPL Update #2 (49 FR 40320, October 15, 1984) included six sites in South Central Oahu, Hawaii, where parts of the basal aquifer have been contaminated by pesticides, including ethylene dibromide (EDB), dibromochloropropane (DBCP), and trichloropropane (TCP), a likely contaminant of the pesticide D–D (which contains 1,2-dichloropropane, 1,3-dichloropropene and related C3 compounds). These six sites were the first sites proposed for the NPL on the basis of releases which appear to originate entirely from the application of pesticides registered under FIFRA.

The Agency has received numerous comments on the listing of the Hawaii pesticide sites. The Agency is continuing to evaluate these sites in the context of an overall policy with respect to sites at which contamination results from the application of FIFRA-registered pesticides. Therefore, the Agency has not reached a final decision on listing of these six sites on the NPL and is deferring final rulemaking on these sites at this time.

Releases of Radioactive Materials

Section 101(22) of CERCLA excludes several types of releases of radioactive materials from the statutory definition of "release." These releases are therefore not eligible for CERCLA response actions or inclusion on the NPL. As a policy matter, EPA has also chosen not to list releases of source, by-product, or special nuclear material from any facility with a current license issued by the Nuclear Regulatory Commission (NRC), on the grounds that the NRC has full authority to require cleanup of releases from such facilities. Formerly licensed facilities whose licenses no longer are in effect will, however, be considered for listing.

These exclusions and policies are discussed in the preambles to previous NPL rulemakings (47 FR 58477, December 30, 1982; 48 FR 40661, September 8, 1983; and 49 FR 37074, September 21, 1984) and remain the same.

Four sites containing radioactive waste are being placed on the NPL in today's rulemaking. One site—the Lodi Municipal Well in Lodi, New Jersey—will remain in proposed status while EPA evaluates additional technical information.

V. Generic HRS Issues

The Agency received a total of 607 comments on proposed NPL Update # 2. Of these, 543 comments pertained to 126 of the proposed sites, including the 36 Federal facility sites. The remainder of the comments addressed sites that were not proposed, or were generic or technical issues that were not site-specific. Comments regarding specific sites are addressed in the "Support Document for the Revised National Priorities List—1986."

Many commenters raised issues that have been raised in previous NPL rulemakings. These issues are discussed in the preambles to previous rulemakings (48 FR 40658, September 8, 1983; 49 FR 37070, September 21, 1984). The Agency's position on these issues remains unchanged. Many of these comments criticized the HRS. Since the HRS was promulgated as a final rule in July 1982 (47 FR 31219), these comments cannot affect the scoring of the sites proposed in October 1984.

EPA's responses to public comments on generic HRS issues are presented in this section of the preamble.

Waste Quantity

A number of commenters said that the waste quantity values assigned under the HRS were too high because EPA had included the nonhazardous constituents of the hazardous substances in calculating the quantity of waste located at the facility. Commenters raised similar issues in previous final NPL rulemakings and EPA's response remains unchanged (48 FR 40664, September 8, 1983; 49 FR 37077, September 31, 1984).

Consideration of Flow Gradients

Several commenters argued that EPA should consider hydrogeologic information on the direction of ground-water flow when assigning an HRS score to population served by ground water. As was the case with the waste quantity issue, this issue was addressed in previous NPL rulemakings (48 FR 40664, September 8, 1983; 49 FR 37077, September 21, 1984). The rationale for the Agency's approach is further discussed in the preamble to the NCP (47 FR 31190, July 16, 1982) and is equally applicable now.

Scoring on the Basis of Current Conditions

Many commenters stated that EPA should take current conditions into account when scoring a site where response actions have reduced the hazards posed by the site. In response, EPA computes HRS scores and lists sites on the basis of conditions existing before any response actions are taken in order to represent the full scope of the original problem presented by a site. This policy was explained in the preamble to the final revisions to the NCP (47 FR 31187, July 16, 1982), and in previous NPL rulemakings (48 FR 40664, September 8, 1983; 49 FR 37078, September 21, 1984). The Agency's position remains unchanged.

Small Observed Release

Some commenters maintained that EPA should not assign a value for an observed release to ground water when the concentration of contaminant is below the regulatory limits specified under the Safe Drinking Water Act or other Federal and State laws. Similar comments were raised in previous final NPL rulemakings (48 FR 40665, September 8, 1983; 49 FR 37078, September 21, 1984), and EPA's response remains unchanged. The HRS does not define the chemicals of concern to be only those which meet or exceed a State's primary or secondary drinking water standards. An observed release is considered to have occurred if contaminants are detected at levels significantly above background levels.

VI. Disposition of Proposed Sites

Of the 244 sites proposed for the NPL on October 15, 1984, two New Jersey sites—the Glen Ridge Radium Site and the Montclair/West Orange Radium Site—were promulgated in a separate rulemaking on February 14, 1985 (50 FR 6320). On September 21, 1984 (49 FR 37070), EPA deferred rulemaking on four sites originally proposed in the first update to the NPL (48 FR 40674, September 8, 1983). EPA has thoroughly reviewed the comments received on these 246 proposed sites and its decisions on the status of these sites are discussed in this section.

In addition to the 246 sites proposed in September 1983, and October 1984, EPA is including in today's rulemaking 7 sites from NPL Update #3 (50 FR 14115, April 10, 1985) and 13 sites from NPL Update #4 (50 FR 37950, September 18, 1985) that did not receive public comments. The inclusion of these 20 sites brings the number of sites discussed in today's rulemaking to 266. Of these sites, 170 are being added to the final NPL. EPA has not made a decision on 88 sites (including the 36 Federal facility sites and the 31 RCRA-related sites), and these sites will continue to be proposed. One site was reproposed on September 18, 1985, as part of NPL Update #4 (50 FR 37950). Final scores for seven sites have dropped below 28.50 and will not be included on the NPL at this time.

Final Sites With HRS Score Changes

For 18 of the 170 sites promulgated today, EPA has revised the HRS scores based on its review of comments and additional information. Although these changes have no effect on listing, some of the changes have resulted in the sites being placed in different groups of 50 sites. These sites are presented in Table 1.

TABLE 1.—FINAL SITES WITH HRS SCORE CHANGES

State and Site Name	City	HRS Score	
		Proposed	Final
California:			
Operating Industries, Inc., Landfill	Monterey Park	47.91	57.22
Intel Corp. (Mountain View Plant)	Mountain View	31.94	29.76
Raytheon Corp	Mountain View	37.93	28.76
Colorado: Smuggler Mountain	Pitkin County	44.78	31.31
Illinois: Pagel's Pit	Rockland	42.47	45.91
Indiana: International Minerals & Chemicals Corp. (Terre Haute East Plant)	Terre Haute	48.91	57.80
Minnesota:			
Agate Lake Scrapyard	Fairview Township	31.24	29.68
Kummer Sanitary Landfill	Bemidji	42.37	35.57
Olmsted County Sanitary Landfill	Oronoco	33.62	40.70
New York:			
BEC Trucking	Vestal	30.76	30.75
Hooker Chemical/Ruco Polymer Corp	Hicksville	48.01	41.60
North Carolina: North Carolina State University (Lot #86, Farm Unit #1)	Raleigh	51.93	48.36
Ohio:			
Alsco Anaconda	Gnadenhutten	48.67	42.94

TABLE 1.—FINAL SITES WITH HRS SCORE CHANGES—Continued

State and Site Name	City	HRS Score	
		Proposed	Final
Industrial Excess Landfill	Uniontown	57.80	51.13
Sanitary Landfill Co. (Industrial Waste Disposal Co., Inc.)	Dayton	31.94	35.57
Pennsylvania: Westinghouse Elevator Co. Plant	Cumberland Township	36.38	36.37
Wisconsin: National Presto Industries, Inc	Eau Claire	38.54	42.39
Stoughton City Landfill	Stoughton	32.45	35.79

Previously Proposed Sites

On September 21, 1984, EPA deferred rulemaking on four sites (Olin Corp.—Areas 1, 2, & 4, Augusta, Georgia; Sand Springs Petrochemical Complex, Sand Springs, Oklahoma; Pig Road, New Waverly, Texas; and Quail Run Mobile Manor, Gray Summit, Missouri) that had been included in the first proposed update to the NPL (48 FR 40674, September 8, 1983).

EPA determined in the promulgation of the first Update (49 FR 37070, September 21, 1984) that the HRS scoring documents on which the proposed rulemaking for the Olin Corp. Site and the Sand Springs Petrochemical Complex Site was based were not in the public docket and were not available to the public during the 60-day comment period for that proposed rule. Therefore, EPA allowed further comment on these sites for a period of 60 days following publication of the final rule. Interested parties were given the opportunity to inspect the HRS scoring documents for these two sites.

During the comment period, EPA received additional comments on the Olin Corp. (Areas 1, 2 & 4) Site. However, the Agency is continuing this site in proposed status because it is an RCRA-related site that may be deferred under the revised RCRA-related site listing policy.

No additional comments were received on the Sand Springs Petrochemical Site after the proper HRS documents were placed into the docket for public review. Therefore, the HRS score remains the same, and this site is included in today's final rulemaking. Disposition of the two remaining sites in the September 1983 proposal will be discussed later in this section.

Sites With Scores Below 28.50

In evaluating the comments received in response to the proposal of NPL Update #2 (49 FR 40320, October 15, 1984), the Agency revised the proposed HRS scores for seven sites. The final HRS scores for these sites are now below the cut-off score of 28.50 and will not be included on the NPL. A summary of the comments and EPA's response are recorded in the "Support Document for the Revised National Priorities List—1986." These sites are listed in Table 2.

Table 2.—Sites Dropped From Consideration (Scores Below 28.50)

State, Site Name, and City

California: Precision Monolithic, Inc.—Santa Clara
Florida: Davidson Lumber Co.—South Miami
Michigan: Lenawee Disposal Service, Inc., Landfill—Adrian
New Jersey: Jame Fine Chemical—Bound Brook
Texas: Pig Road—New Waverly
Utah: Mayflower Mountain Tailings Pond—Wasatch
Washington: Quendall Terminal—Renton

Reproposed Sites

One site—the Pratt & Whitney Aircraft/United Technologies Corp. Site in West Palm Beach, Florida—has been reproposed for the NPL. The site was originally proposed for the NPL on October 15, 1984 (40 FR 40320). The Agency reproposed the site on September 18, 1985 (50 FR 37950), and solicited comments on a completely revised HRS score. The Agency is considering comments received on this site and will make a decision whether to include it on the NPL in a future rulemaking.

Sites Still Under Consideration

The Agency has not made a final decision for 88 sites, including 36 Federal facilities sites and 31 RCRA-related sites (Table 3); eighty-three of these sites will continue to be proposed. The basis for continuing the proposal of these sites is explained below or in section IV of the eligibility policies. In a separate notice in today's **Federal Register**, EPA is soliciting further comments on five sites.

Table 3.—Sites Still Under Consideration

Category Site Name, and Location

Proposed Sites: Comment Period Not Extended

Federal Facilities:

Alabama Army Ammunition Plant—Childersburg, Alabama
Anniston Army Depot (Southeast Industrial Area)—Anniston, Alabama
Castle Air Force Base—Merced, California
Lawrence Livermore National Laboratory (USDOE)—Livermore, California
Mather Air Force Base (AC&W Disposal Site)—Sacramento, California
McClellan Air Force Base (Ground Water Contamination)—Sacramento, California.
Norton Air Force Base—San Benardino, California
Sacramento Army Depot—Sacramento, California
Sharpe Army Depot—Lathrop, California
Rocky Flats Plant (USDOE)—Golden, Colorado
Rocky Mountain Arsenal—Adams County, Colorado
Dover Air Force Base—Dover, Delaware
Robins Air Force Base—Houston County, Georgia
Joliet Army Ammunition Plant (Manufacturing Area)—Joliet, Illinois
Sangamo Electric Dump/Crab Orchard National Wildlife Refuge (USDOI)—Carterville, Illinois
Savanna Army Depot Activity—Savanna, Illinois
Louisiana Army Ammunition Plant—Doyline, Louisiana
Brunswick Naval Air Station—Brunswick, Maine
Lake City Army Ammunition Plant (Northwest Lagoon)—Independence, Missouri
Weldon Spring Quarry (USDOE/Army)—St. Charles County, Missouri
Cornhusker Army Ammunition Plant—Hall County, Nebraska
Fort Dix (Landfill Site)—Burlington County, New Jersey
Naval Weapons Station Earle (Site A)—Colts Neck, New Jersey
Griffiss Air Force Base—Rome, New York
Umatilla Army Depot (Lagoons)—Hermiston, Oregon
Letterkenny Army Depot (Southeast Area)—Chambersburg, Pennsylvania
Milan Army Ammunition Plant—Milan, Tennessee
Air Force Plant #4 (General Dynamics)—Fort Worth, Texas
Lone Star Army Ammunition Plant—Texarkana, Texas
Hill Air Force Base—Ogden, Utah
Ogden Defense Depot—Ogden, Utah
Tooele Army Depot (North Area)—Tooele, Utah
Defense General Supply Center—Chesterfield County, Virginia
Bangor Ordnance Disposal—Bremerton, Washington
Fort Lewis (Landfill #5)—Tacoma, Washington

McChord Air Force Base (Wash Rack/Treatment Area)—Tacoma, Washington

Pesticide-Application Sites:

Kunia Wells I—Oahu, Hawaii
Kunia Wells II—Oahu, Hawaii
Mililani Wells—Oahu, Hawaii
Waiawa Shaft—Oahu, Hawaii
Waipahu Wells—Oahu, Hawaii
Waipio Heights Wells II —Oahu, Hawaii

RCRA-Related Sites:

Motorola, Inc. (52nd Street Plant)—Phoenix Arizona
Applied Materials—Santa Clara, California
Fairchild Camera & Instrument Corp. (Mountain View Plant)—Mountain View, California
Fairchild Camera & Instrument Corp. (South San Jose Plant)—South San Jose, California
FMC Corp. (Fresno Plant)—Fresno, California
Hewlett-Packard—Palo Alto, California
IBM Corp. (San Jose Plant)—San Jose, California
Lorentz Barrel & Drum Co.—San Jose, California
Marley Cooling Tower Co.—Stockton, California
Monolithic Memories, Inc.—Sunnyvale, California
National Semiconductor Corp.—Santa Clara, California
Rhone-Poulenc, Inc./Zoecon Corp.—East Palo Alto, California
Signetics, Inc.—Sunnyvale, California
Southern Pacific Transportation Co.—Roseville, California
Teledyne Semiconductor—Mountain View, California
Van Waters & Rogers, Inc.—San Jose, California
City Industries, Inc.—Orlando, Florida
Olin Corp (Areas 1, 2 & 4)—Augusta, Georgia
Sheffield (U.S. Ecology, Inc.)—Sheffield, Illinois
Chemplex Co.—Clinton/Camanche, Iowa
U.S. Nameplate Co.—Mount Vernon, Iowa
National Industrial Environmental Services—Furley, Kansas
E.I. DuPont de Nemours & Co., Inc. (Montague Plant)—Montague, Michigan
Lacks Industries, Inc.—Grand Rapids, Michigan
Findett Corp.—St. Charles, Missouri
Burlington Northern Railroad (Somers Tie-Treating Plant)—Somers, Montana
Lindsay Manufacturing Co.—Lindsay, Nebraska
General Electric Co. (Coshocton Plant)—Coshocton, Ohio
Culpeper Wood Preservers, Inc.,—Culpeper County, Virginia
IBM Corp. (Manassas Plant Spill)—Manassas, Virginia
Mobay Chemical Corp. (New Martinsville Plant)—New Martinsville, West Virginia

Mining Waste Sites:

Olson/Neihart Reservoir—Wasatch County, Utah
Sharon Steel Corp. (Midvale Tailings)—Midvale, Utah

Other Sites:

J.H. Baxter Co.—Weed, California
Montrose Chemical Corp.—Torrance, California
Montco Research Products, Inc.—Hollister, Florida
Michigan Disposal Service (Cork Street Landfill)—Kalamazoo, Michigan
Quail Run Mobile Manor—Gray Summit, Missouri
Lodi Municipal Well—Lodi, New Jersey
Brio Refining Co., Inc.—Friendswood, Texas
Sol Lynn/Industrial Transformers—Houston, Texas

Proposed Sites: Comment Period Extended

Firestone Tire & Rubber Co. (Salinas Plant)—Salinas, California
Kerr-McGee (Kress/Creek/West Branch of DuPage River)—DuPage County, Illinois
Kerr-McGee (Reed-Keppler Park)—West Chicago, Illinois
Kerr-McGee (Residential Areas)—West Chicago/DuPage County, Illinois
Kerr-McGee (Sewage Treatment Plant)—West Chicago, Illinois

Montrose Chemical Corp., Torrance, California. The Montrose Chemical Corp. Site in Torrance, California, was part of the October 15, 1984 (49 FR 40320) proposal. EPA is deferring final rulemaking on this site until additional air monitoring is completed. The site was scored with an observed release of DDT to the air based on the presence of DDT in several soil samples surrounding the site. The Agency believes that additional sampling may confirm an air release from this site.

Quail Run Mobile Manor Site, Gray Summit, Missouri. The Agency has not made a final decision on the promulgation of the Quail Run Mobile Manor Site in Gray Summit, Missouri, at this time. The site was originally proposed in Update #1 (48 FR 40674, September 8, 1983) on the basis of a proposed health advisory listing criterion, rather than on an HRS score of 28.50 or above. This proposed listing criterion was subsequently promulgated (50 FR 37624, September 16, 1985) as Section 300.66(b)(4) of the NCP. The Agency is continuing to evaluate this site. Accordingly, EPA is deferring final rulemaking on the Quail Run Site at this time.

Other Sites. EPA has received additional technical information for six sites—the J.H. Baxter Co. Site in Weed, California; Montco Research Products Inc., Site in Hollister, Florida; Michigan Disposal Service (Cork Street Landfill) Site in Kalamazoo, Michigan; Lodi Municipal Well in Lodi, New Jersey; the Brio Refining Co. Site in Friendswood, Texas; and the Sol Lynn/Industrial Transformer Site in Houston, Texas. In order to further evaluate this information, the Agency has decided to defer final rulemaking on these six sites. They will remain in proposed status until a later rulemaking.

Name Revisions

A number of changes are being made in the site names in the October 1984 proposal, some in response to information received during the comment period (Table 4). The changes are intended to reflect more accurately the location or nature of the problems at the site, or to give each site a unique name.

The following site, placed on the NPL in October 1984, is also being renamed;

- American Creosote Works in Pensacola, Florida, becomes American Creosote Works, Inc. (Pensacola Plant).

Table 4.—Changes in Site Names

Site Name on Proposed NPL and Site Name on Final NPL

California:
Alviso Dumping Areas, Alviso—South Bay Asbestos Area
Thompson-Hayward Chemical Co., Fresno—T.H. Agriculture & Nutrition Co.
Zeocon Corp./Rhone-Poulenc, Inc., East Palo Alto—Rhone-Poluenc, Inc./Zoecon Corp.
Minnesota: Pine Bend Sanitary Landfill/Crosby American Demolition Landfill, Dakota County—Pine Bend Sanitary Landfill
Pennsylvania: Domino Salvage Yard, Valley Township—MW Manufacturing
Tennessee: American Creosote Works, Inc., Jackson—American Creosote Works Inc. (Jackson Plant)
Utah: Sharon Steel Corp. (Midvale Smelter)—Sharon Steel Corp. (Midvale Tailings)
Wiconsin: Lemberger Fly Ash Landfill, Whitelaw—Lemberger Landfill, Inc.

Comments on Sites Not Proposed

EPA received comments on a few sites that were not proposed as candidates for the NPL. These sites include: Kesterson Wildlife Refuge, Los Banos, California; Prewitt Refinery, Prewitt, New Mexico; Lake Erie (Ashtabula North Shore), Ashtabula, Ohio; and Buckingham County Landfill, Buckingham Courthouse, Virginia.

In response, EPA updates the NPL using rulemaking procedures established pursuant to the Administrative Procedure Act. One of these sites, Buckingham Courthouse, Virginia has been proposed for the NPL in the April 10, 1985, update to the NPL (50 FR 14115) as Love's Container Service Landfill. Since the rest of these sites have not been proposed for the NPL, they are not eligible for action in this final rule. EPA is working with the States to evaluate the hazards at these sites and determine the appropriateness of including them on the NPL.

VII. Deletions of Final Sites

There is no specific statutory requirement that the NPL be revised to

delete sites. However, EPA has decided to delete sites to provide incentives for cleanup to private parties and public agencies. Furthermore, deleting sites allows the Agency to drive notice that the sites have been cleaned up and gives the public an opportunity to comment on those actions. Section 300.66(c)(7) of the NCP establishes criteria for deleting sites from the NPL. Under § 300.66(c)(7), a site may be deleted where no further response is appropriate. In making this determination, EPA will consider whether any of the following criteria has been met:

(1) EPA in consultation with the State has determined that responsible or other parties have implemented all appropriate response actions required;

(2) All appropriate Fund-financed response under CERCLA has been implemented, and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate; or

(3) Based on remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment, and therefore, remedial measures as not appropriate.

Sites that have been deleted from the NPL remain eligible for further Fund-financed remedial actions if future conditions warrant such action.

The criteria and procedures for deleting sites from the NPL were outlined initially in a guidance memorandum dated March 27, 1984. EPA solicited comments on the deletion criteria and procedures when EPA proposed the second update to the NPL (49 FR 40322, October 15, 1985). EPA again solicited comments when the NCP amendments were proposed (50 FR 5862, February 12, 1985). The November 20, 1985, promulgation of amendments to the NCP reflects EPA's consideration of all the comments received on the criteria for deletion of sites on the NPL (50 FR 47912).

On December 31, 1985 (50 FR 53448), EPA published a notice of intent to delete eight sites from the NPL. EPA accepted comments on the deletion of these sites and published a notice on March 7, 1986 (51 FR 7935) indicating that the following sites have been deleted from the NPL:

- Taputimu Farm, Island of Tutuila, American Samoa
- PCB Warehouse, Saipan, Commonwealth of the Northern Mariana Islands
- Morris Arsenic Dump, Morris, Minnesota
- Friedman Property (once listed as Upper Freehold Township), Upper Freehold Township, New Jersey
- –PCB Spills, 243 Miles of Road, North Carolina
- –Enterprise Avenue, Philadelphia, Pennsylvania
- –Lehigh Electric & Engineering Co., Old Forge Borough, Pennsylvania
- –PCB Wastes, Trust Territory of the Pacific Islands

VIII. Contents of the NPL

CERCLA requires that the NPL include, if practicable, at least 400 sites. The NCP amendment published today contains a total of 703 entries, including 170 new sites. The 170 sites added to the final list are shown in Table 5 by rank. Each entry contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. For informational purposes, each entry is accompanied by a notation on the current status of response and cleanup activities at the site. The definitions of the response categories and cleanup status codes are described more fully below.

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TABLE 5
NATIONAL PRIORITIES LIST (BY RANK)
SITES ADDED IN MAY 1986

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#				CLEANUP STATUS@
			GROUP 2						
54	04	FL	Peak Oil Co./Bay Drum Co.	Tampa		R			
68	05	IN	International Minerals (E. Plant)	Terre Haute				D	
71	09	CA	Operating Industries, Inc. Lndfll	Monterey Park			F		
			GROUP 3						
112	08	UT	Portland Cement (Kiln Dust 2 & 3)	Salt Lake City	V			S	
117	10	WA	Midway Landfill	Kent		R			I
128	06	TX	Bailey Waste Disposal	Bridge City		R			
131	05	MI	Thermo-Chem, Inc.	Muskegon				D	
140	05	MN	Pine Bend Sanitary Landfill	Dakota County				S	
141	07	IA	Lawrence Todtz Farm	Camanche				D	
			GROUP 4						
159	05	OH	Industrial Excess Landfill	Uniontown		R		S	I
163	02	NY	Liberty Industrial Finishing	Farmingdale	V			S	
181	04	NC	Celanese(Shelby Fiber Operations)	Shelby				D	
184	05	MI	Motor Wheel, Inc.	Lansing				D	O
186	06	TX	Stewco, Inc.	Waskom		R	F		O
192	02	NY	Johnstown City Landfill	Town of Johnstown				D	
193	04	NC	NC State U (Lot 86, Farm Unit #1)	Raleigh				D	
196	03	PA	Hunterstown Road	Straban Township		R	F		O
			GROUP 5						
213	08	CO	Eagle Mine	Minturn/Redcliff		R		S	O
219	07	MO	Lee Chemical	Liberty				D	O
223	05	MI	Torch Lake	Houghton County				D	
224	01	RI	Central Landfill	Johnston	V		F	S	
228	03	PA	MW Manufacturing	Valley Township				S	
233	03	PA	Whitmoyer Laboratories	Jackson Township				D	

*: STATES' DESIGNATED TOP PRIORITY SITES
#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
F = FEDERAL ENFORCEMENT; S = STATE ENFORCEMENT;
D = ACTIONS TO BE DETERMINED.

@: I = IMPLEMENTATION ACTIVITY UNDERWAY, ONE OR MORE OPERABLE UNITS;
O = ONE OR MORE OPERABLE UNITS COMPLETED, OTHERS MAY BE UNDERWAY;
C = IMPLEMENTATION ACTIVITY COMPLETED FOR ALL OPERABLE UNITS.

NATIONAL PRIORITIES LIST (BY RANK)
SITES ADDED IN MAY 1986

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
GROUP 5 (CON'T)						
235	03	PA	Shriver's Corner	Straban Township	R F	O
239	05	IL	Pagel's Pit	Rockford	D	O
240	05	MN	U of Minnesota Rosemount Res Cent	Rosemount	S	
241	05	MN	Freeway Sanitary Landfill	Burnsville	D	
245	04	MS	Newsom Brothers/Old Reichhold	Columbia	R	O
250	05	IN	Columbus Old Municipal Lndfll #1	Columbus	D	
GROUP 6						
253	02	NY	Tronic Plating Co., Inc.	Farmingdale	D	
258	02	NJ	Waldick Aerospace Devices, Inc.	Wall Township	R S	O
263	09	CA	South Bay Asbestos Area	Alviso	R	I
274	10	OR	Martin-Marietta Aluminum Co.	The Dalles	V	
275	08	CO	Uravan Uranium (Union Carbide)	Uravan	D	
278	05	MN	Oak Grove Sanitary Landfill	Oak Grove Township	R	
287	05	OH	Alsco Anaconda	Gnadenhutten	S	
292	04	AL	Interstate Lead Co. (ILCO)	Leeds	V R F S	O
GROUP 7						
305	05	IN	Fort Wayne Reduction Dump	Fort Wayne	R	
307	05	WI	National Presto Industries, Inc.	Eau Claire	D	
311	03	MD	Mid-Atlantic Wood Preservers, Inc	Harmans	D	
319	06	TX	Odessa Chromium #1	Odessa	R	
320	06	TX	Odessa Chromium #2 (Andrews Hgwy)	Odessa	R	
321	07	NE	Hastings Ground Water Contamin	Hastings	R	
325	09	CA	San Fernando Valley (Area 1)	Los Angeles	D	
326	09	CA	San Fernando Valley (Area 2)	Los Angeles/Glendale	D	
327	09	CA	San Fernando Valley (Area 3)	Glendale	D	
328	09	CA	T.H. Agriculture & Nutrition Co.	Fresno	D	
332	04	NC	Jadco-Hughes Facility	Belmont	D	
333	02	NJ	Monitor Devices/Intercircuits Inc	Wall Township	D	
337	02	NY	Hooker Chemical/Ruco Polymer Corp	Hicksville	D	

*: STATES' DESIGNATED TOP PRIORITY SITES
#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
F = FEDERAL ENFORCEMENT; S = STATE ENFORCEMENT;
D = ACTIONS TO BE DETERMINED.

@: I = IMPLEMENTATION ACTIVITY UNDERWAY, ONE OR MORE OPERABLE UNITS;
O = ONE OR MORE OPERABLE UNITS COMPLETED, OTHERS MAY BE UNDERWAY;
C = IMPLEMENTATION ACTIVITY COMPLETED FOR ALL OPERABLE UNITS.

NATIONAL PRIORITIES LIST (BY RANK)
SITES ADDED IN MAY 1986

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
GROUP 7 (CON'T)						
340	02	NY	Applied Environmental Services	Glenwood Landing	S	I
342	01	NH	Tibbets Road	Barrington	R	O
GROUP 8						
352	05	MI	Roto-Finish Co., Inc.	Kalamazoo	D	O
353	05	MN	Olmsted County Sanitary Landfill	Oronoco	D	
354	07	MO	Quality Plating	Sikeston	D	
362	10	WA	Toftdahl Drums	Brush Prairie	R	O
363	06	TX	Texarkana Wood Preserving Co.	Texarkana	D	
370	09	CA	Westinghouse (Sunnyvale Plant)	Sunnyvale	D	
373	05	MI	H. Brown Co., Inc.	Grand Rapids	D	
374	02	NY	Nepera Chemical Co., Inc.	Maybrook	V	
380	02	NY	Pasley Solvents & Chemicals, Inc.	Hempstead	D	
387	01	RI	Davis (GSR) Landfill	Glocester	D	
391	06	TX	South Cavalcade Street	Houston	V F	
397	05	IL	Petersen Sand & Gravel	Libertyville	R	
GROUP 9						
401	08	MT	Idaho Pole Co.	Bozeman	D	I
406	05	MN	Windom Dump	Windom	D	
408	05	IL	NL Industries/Taracorp Lead Smelt	Granite City	V F S	
415	02	NJ	Cinnaminson Ground Water Contamin	Cinnaminson Township	R	
418	04	NC	Bypass 601 Ground Water Contamin	Concord	D	
419	07	MO	Solid State Circuits, Inc.	Republic	R F S	O
420	07	NE	Waverly Ground Water Contamin	Waverly	R	
421	09	CA	Advanced Micro Devices, Inc.	Sunnyvale	D	
432	03	PA	Brown's Battery Breaking	Shoemakersville	R F	O
433	02	NY	SMS Instruments, Inc.	Deer Park	D	
436	02	NY	Byron Barrel & Drum	Byron	R F	O
438	02	NY	Anchor Chemicals	Hicksville	D	
439	05	MI	Waste Management-Mich (Holland)	Holland	D	

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NATIONAL PRIORITIES LIST (BY RANK)
SITES ADDED IN MAY 1986

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
GROUP 9 (CON'T)						
440	06	TX	North Cavalcade Street	Houston	R	
GROUP 10						
456	05	IN	Neal's Dump (Spencer)	Spencer	F S	O
458	03	PA	Westinghouse Elevator Co. Plant	Gettysburg	R F	O
465	05	WI	Stoughton City Landfill	Stoughton	D	
468	03	PA	Middletown Air Field	Middletown	D	O
473	03	WV	Ordnance Works Disposal Areas	Morgantown	F	
476	02	NY	Suffern Village Well Field	Village of Suffern	R	
477	02	NY	Endicott Village Well Field	Village of Endicott	R	
478	05	MN	Kummer Sanitary Landfill	Bemidji	R	I
479	05	OH	Sanitary Landfill Company (IWD)	Dayton	D	
481	07	MO	Valley Park TCE	Valley Park	D	
482	09	CA	San Fernando Valley (Area 4)	Los Angeles	D	
489	03	VA	Avtex Fibers, Inc.	Front Royal	D	
492	02	NY	Katonah Municipal Well	Town of Bedford	R	O
497	04	TN	American Creosote (Jackson Plant)	Jackson	R	O
500	02	NY	Preferred Plating Corp.	Farmingdale	D	
GROUP 11						
502	08	UT	Monticello Rad Contaminated Props	Monticello	R	I
505	01	MA	Salem Acres	Salem	D	
515	10	WA	Mica Landfill	Mica	D	
522	02	NY	Clothier Disposal	Town of Granby	R	
523	03	PA	Ambler Asbestos Piles	Ambler	V R F S	O
525	03	VA	L.A. Clarke & Son	Spotsylvania County	R	
527	03	MD	Southern Maryland Wood Treating	Hollywood	R	O
529	09	CA	Beckman Instruments (Porterville)	Porterville	D	
530	04	FL	Dubose Oil Products Co.	Cantonment	S	O
535	05	WI	Lemberger Landfill, Inc.	Whitelaw	S	
541	03	PA	Modern Sanitation Landfill	Lower Windsor Twp	V S	

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NATIONAL PRIORITIES LIST (BY RANK)
SITES ADDED IN MAY 1986

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#			CLEANUP STATUS@
GROUP 11 (CON'T)								
543	05	MI	North Bronson Industrial Area	Bronson			D	
548	10	WA	Northwest Transformer	Everson	R			O
549	05	WI	Sheboygan Harbor & River	Sheboygan			D	
GROUP 12								
552	02	NY	North Sea Municipal Landfill	North Sea	R			O
554	09	CA	Louisiana-Pacific Corp.	Oroville			D	
555	05	MI	South Macomb Disposal (Lf 9 & 9A)	Macomb Township			D	
560	02	NY	Hertel Landfill	Plattekill			D	
561	02	NY	Haviland Complex	Town of Hyde Park	R			
562	05	MN	Adrian Municipal Well Field	Adrian	R			
564	07	KS	Strother Field Industrial Park	Cowley County	V		S	O
565	02	NJ	Fried Industries	East Brunswick Twp	R			O
569	02	NY	Goldisc Recordings, Inc.	Holbrook	V			
572	02	NY	Sarney Farm	Amenia	R			
573	01	MA	Rose Disposal Pit	Lanesboro		F	S	
574	05	OH	Van Dale Junkyard	Marietta			D	
577	02	NY	Volney Municipal Landfill	Town of Volney	V R		S	O
578	02	NY	FMC Corp. (Dublin Road Landfill)	Town of Shelby	V		S	
580	04	KY	Smith's Farm	Brooks	R			O
582	07	KS	Big River Sand Co.	Wichita	R			
587	06	TX	Crystal City Airport	Crystal City	R			O
592	02	NY	Cortese Landfill	Vil of Narrowsburg	V		S	
596	07	IA	Midwest Manufacturing/North Farm	Kellogg			D	
600	02	NJ	Pomona Oaks Residential Wells	Galloway Township	R			O
GROUP 13								
602	05	MN	Long Prairie Ground Water Contam	Long Prairie	R			
603	05	MN	Waite Park Wells	Waite Park	R			
604	09	CA	Intel Magnetics	Santa Clara			D	
605	09	CA	Intel Corp. (Santa Clara III)	Santa Clara			D	

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NATIONAL PRIORITIES LIST (BY RANK)
SITES ADDED IN MAY 1986

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#				CLEANUP STATUS@
GROUP 13 (CON'T)									
610	02	NY	Kenmark Textile Corp.	Farmingdale				D	I
612	04	KY	Maxey Flats Nuclear Disposal	Hillsboro		R			
613	08	MT	Mouat Industries	Columbus				D	
614	02	NY	Claremont Polychemical	Old Bethpage	V		S		
616	03	PA	Croydon TCE	Croydon				D	
617	07	IA	Vogel Paint & Wax Co.	Orange City			S		
618	05	MN	Kurt Manufacturing Co.	Fridley			S		
620	06	TX	Koppers Co., Inc. (Texarkana Pit)	Texarkana	V	F			
622	08	CO	Smuggler Mountain	Pitkin County	V	F			
625	05	MI	Avenue "E" Ground Water Contamin	Traverse City			S		
629	05	MN	Koch Refining Co./N-Ren Corp.	Pine Bend	V		S		
631	05	WI	Fadrowski Drum Disposal	Franklin				D	
636	03	DE	Halby Chemical Co.	New Castle				D	
640	06	AR	Midland Products	Ola/Birta		R			
641	02	NY	Robintech, Inc./National Pipe Co.	Town of Vestal		R			
642	02	NY	BEC Trucking	Town of Vestal				D	
646	03	VA	Rhinehart Tire Fire Dump	Frederick County	V	R	F		O
GROUP 14									
654	01	MA	Haverhill Municipal Landfill	Haverhill				D	
657	02	NY	Colesville Municipal Landfill	Town of Colesville				D	O
658	04	FL	Yellow Water Road Dump	Baldwin		R	F		O
661	05	IN	MIDCO II	Gary		R	F		O
662	03	MD	Kane & Lombard Street Drums	Baltimore		R			O
664	10	WA	Silver Mountain Mine	Loomis		R			O
665	06	TX	Petro-Chemical (Turtle Bayou)	Liberty County		R			
666	05	OH	Republic Steel Corp. Quarry	Elyria				D	
668	09	CA	Intel Corp. (Mountain View Plant)	Mountain View			F		
669	09	CA	Raytheon Corp.	Mountain View			F		I
670	05	MN	Agate Lake Scrapyard	Fairview Township		R			O
672	01	MA	Shpack Landfill	Norton/Attleboro				D	
674	01	MA	Norwood PCBs	Norwood		R			O
678	05	IN	Tri-State Plating	Columbus				D	
680	01	NH	Coakley Landfill	North Hampton	V	R	S		

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NATIONAL PRIORITIES LIST (BY RANK)
SITES ADDED IN MAY 1986

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
GROUP 14 (CON'T)						
684	05	WI	Wausau Ground Water Contamination	Wausau	R	O
688	07	MO	North-U Drive Well Contamination	Springfield	R	O
693	10	WA	Northside Landfill	Spokane	R	O
694	06	OK	Sand Springs Petrochemical Cmplx	Sand Springs	R F	O
695	06	TX	Pesses Chemical Co.	Fort Worth	R	O
696	05	MN	East Bethel Demolition Landfill	East Bethel Township	D	
GROUP 15						
702	07	MO	Bee Cee Manufacturing Co.	Malden	D	

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NUMBER OF NPL SITES: 170

BILLING CODE 6560-50-C

The new sites added to the NPL are incorporated into the previously promulgated NPL in order of their HRS score (except where EPA modified the order to reflect top priorities designated by the States, as discussed in the following paragraph). The NPL is presented in groups of 50 sites to emphasize the fact that minor differences in HRS scores do not necessarily represent significantly different levels of risk. EPA considers the sites within a group to have approximately the same priority for response actions.

Section 105(8)(B) of CERCLA requires that, to the extent practicable, the NPL include within the 100 highest priorities at least one facility designated by each State as representing the greatest danger to public health, welfare, or the environment among known facilities in the State. Because States are not required to rely on the HRS in designating their top-priority sites, the HRS scores of some of these sites would not have placed them among the first 100. Consequently, these lower-scoring State priority sites are listed at the bottom of the first 100 sites. All top-priority sites designated by States are indicated by asterisks.

For informational purposes, the NPL includes several categories of notation reflecting the status of response and cleanup activities at these sites at the time this list was prepared. Because this information may change periodically, these notations may become outdated. The response categories and cleanup status codes are defined below:

Response Categories

The following response categories are used to designate the type of response underway. One or more categories may apply to each site.

Federal and/or State response (R). The Federal and/or State Response category includes sites at which EPA or State agencies have started or completed response actions. These include removal actions, non-enforcement remedial investigations/feasibility studies, initial remedial measures, and/or remedial actions under CERCLA [NCP, § 300.66(f)(i) 47 FR 31217, July 16, 1982]. For purposes of assigning a category, the response action commences when EPA obligates funds.

Federal enforcement (F). This category includes sites where the United States has filed a civil complaint (including cost recovery actions) or issued an administrative order under CERCLA or RCRA. It also includes sites at which a Federal court has mandated some form of response action following a judicial proceeding. All sites at which EPA has obligated funds for enforcement-lead remedial investigations and feasibility studies also are included in this category.

A number of sites on the NPL are the subject of investigations or have been formally referred to the Department of Justice for possible enforcement action. EPA's policy is not to release information concerning a possible enforcement action until a lawsuit has been filed. Accordingly, sites subject to pending Federal action are not included in this category, but are included under "Category To Be Determined."

State enforcement (S). This category includes sites where a State has filed a civil complaint or issued an administrative order. It also includes sites at which a State court has mandated some form of response action following a judicial proceeding. Sites where a State has obligated funds for enforcement-lead remedial investigations and feasibility studies are also included in this category.

It is assumed that State policy is not to release information concerning possible enforcement actions until such action has been formally taken. Accordingly, sites subject to pending State legal action are not included in this category, but are included under "Category To Be Determined."

Voluntary or negotiated response (V). Sites are included in this category if private parties have started or completed response actions pursuant to consent agreements, consent orders or consent decrees to which EPA and/or the State is a party. Usually, the response actions result from a Federal or State enforcement action. This category includes privately-financed remedial investigations/feasibility studies, removal actions, initial remedial measures, and/or remedial actions.

Category to be determined (D). This category includes all sites not listed in any other category. A wide range of activities may be in progress at sites in this category. EPA or a State may be evaluating the type of response action to undertake, or a response action may be determined but funds are not yet obligated. A site where an enforcement action may be under development, or Federal or State legal action has been initiated under authorities other than CERCLA or RCRA are also included in this category. Responsible parties may be undertaking cleanup actions that are not covered by a consent decree, consent agreement, or an administrative order.

Cleanup Status Codes

EPA indicates the status of Fund-financed or private party cleanup activities underway or completed at NPL sites. Fund-financed response activities which are coded include: significant removal actions, initial remedial measures, source control remedial actions, and off-site remedial actions. The status of cleanup activities conducted by responsible parties under a consent decree, consent agreement, court order, or administrative order also is coded. Additionally coded are similar cleanup activities taken independently of EPA and/or the State. Remedial planning activities or engineering studies do not receive a cleanup status code.

Many sites listed on the NPL are cleaned up in stages or "operable units." For purposes of cleanup status coding, an operable unit is a discrete action taken as part of the entire site cleanup that significantly decreases or eliminates a release, threat of release, or pathway of exposure. One or more operable units may be necessary to complete the cleanup of a hazardous waste site. Operable units may include significant removal actions taken to stabilize deteriorating site conditions or provide alternative water supplies, initial remedial measures, and remedial actions. Simple removal actions such as building fences and berms which do not eliminate a significant release, threat of release, or pathway of exposure are not considered an operable unit for purposes of cleanup status coding.

The following cleanup status codes are used to designate the status of cleanup activities at NPL sites. Only one status code is necessary to denote the status of actual cleanup activity at each site since the codes are mutually exclusive.

Implementation activities are underway for one or more operable units (I). Field work is in progress at the site for implementation of one or more removal or remedial operable units, but no operable units are completed.

Implementation activities are completed for one or more (but not all) operable units. Implementation activities may be underway for additional operable units (O). Field work has been completed for one or more operable units, but additional site cleanup actions are necessary.

Implementation activities are completed for all operable units (C). The approved remedy has been implemented. All actions agreed upon for remedial action at the site have been completed, and performance monitoring

has commenced. The site will be considered for deletion from the NPL subsequent to completion of the performance monitoring and preparation of a deletion recommendation. Further site activities could occur if EPA considers such activities necessary.

IX. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of economic implications of today's amendment to the NCP. EPA believes that the kinds of economic effects associated with this revision are generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA and the economic analysis prepared when the amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to adding 170 sites to the NPL can be characterized in terms of the conclusions of the earlier regulatory impact analysis and the most recent economic analysis.

Costs

EPA has determined that this rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites included in this rulemaking.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the remedial investigation/feasibility study (RI/FS), design and construction, and operation and maintenance (O & M), or the costs may be shared by EPA and the States on a 90%:10% basis (50%:50% in the case of publicly-owned sites). Additionally, States assume all costs for O&M activities after the first year at sites involving Fund-financed remedial actions.

Rough estimates of the average per-site and total costs associated with each of the above activities are presented below. At this time, EPA is unable to predict what portions of the total costs will be borne by responsible parties, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost recovery actions.

Cost category:	*Average total cost per site*[1]
RI/FS	$800,000
Remedial design	440,000
Remedial action	[2] 7,200,000
Net present value of O&M (over 30 yrs.)[3]	[2] 3,770,000

[1] 1984 U.S. dollars.
[2] Includes State cost share.
[3] Assumes cost of O&M over 30 years, $400,000 for the first year, and 10% discount rate.

Source: "Extent of the Hazardous Release Problem and Future Funding Needs—CERCLA Section 301(a)(1)(c) Study", December 1984, Office of Solid Waste and Emergency Response, U.S. EPA.

Costs to States associated with today's amendment arise from the required State costs-share of: (1) 10 percent of remedial action and 10 percent of first year O&M costs at privately-owned sites; and (2) at least 50 percent of the remedial planning (RI/FS and remedial design), remedial action and first year O&M costs at publicly-owned sites. States will assume all of the cost for O&M after the first year. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90 percent of the 170 sites added to the NPL in this amendment will be privately-owned and 10 percent will be State or locally-owned. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial actions at all 170 sites would be $764 million, of which $582 million is attributable to the State O&M cost.

Listing a hazardous waste site on the final NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary, and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the wastes at the site; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against potentially responsible parties.

Economy-wide effects of this amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's amendment to list additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement action. Listing sites as national priority targets may also give States increased support for funding responses at particular sites.

As a result of the additional NPL remedies, there will be lower human exposure to high risk chemicals, and higher quality surface water, ground water, soil, and air. The magnitude of these benefits is expected to be significant, although difficult to estimate in advance of completing the RI/FS at these sites.

Associated with the costs are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly (through purchased materials).

X. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities the Act refers to small businesses, small governmental jurisdictions, and nonprofit organizations.

While modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The listing of sites on the NPL does not in itself require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no indentifiable groups are affected as a

whole. As a consequence, it is hard to predict impacts on any group. A site's inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected businesses at this time nor estimate the number of small businesses that might be affected.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the listing of these 170 sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would only occur through enforcement and cost recovery actions which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also the firm's ability to pay. The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

PART 300—[AMENDED]

40 CFR Part 300 is amended to read as follows:

1. The authority citations for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9605(8)(B)/CERCLA 105(8)(B).

2. Appendix B of Part 300 is revised to read as set forth below.

Dated: May 19, 1986.

Jack W. McGraw,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

BILLING CODE 6560-50-M

Appendix B—National Priorities List (By Rank)

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
			GROUP 1			
1	02	NJ	Lipari Landfill	Pitman	R F	O
2	03	DE	Tybouts Corner Landfill *	New Castle County	V R F	O
3	03	PA	Bruin Lagoon	Bruin Borough	R	O
4	02	NJ	Helen Kramer Landfill	Mantua Township	R S	
5	01	MA	Industri-Plex	Woburn	V R	O
6	02	NJ	Price Landfill *	Pleasantville	R F	O
7	02	NY	Pollution Abatement Services *	Oswego	R	O
8	07	IA	LaBounty Site	Charles City	V F	O
9	03	DE	Army Creek Landfill	New Castle County	V F	O
10	02	NJ	CPS/Madison Industries	Old Bridge Township	D	
11	01	MA	Nyanza Chemical Waste Dump	Ashland	R	
12	02	NJ	Gems Landfill	Gloucester Township	R S	I
13	05	MI	Berlin & Farro	Swartz Creek	V R F S	O
14	01	MA	Baird & McGuire	Holbrook	R F	O
15	02	NJ	Lone Pine Landfill	Freehold Township	V R F	
16	01	NH	Somersworth Sanitary Landfill	Somersworth	R	
17	05	MN	FMC Corp. (Fridley Plant)	Fridley	V	O
18	06	AR	Vertac, Inc.	Jacksonville	V F	O
19	01	NH	Keefe Environmental Services	Epping	R S	O
20	08	SD	Whitewood Creek *	Whitewood	V	
21	08	MT	Silver Bow Creek	Sil Bow/Deer Lodge	R	
22	06	TX	French, Ltd.	Crosby	V R F	O
23	01	NH	Sylvester *	Nashua	R S	O
24	05	MI	Liquid Disposal, Inc.	Utica	R	O
25	03	PA	Tysons Dump	Upper Merion Twp	R F	O
26	03	PA	McAdoo Associates *	McAdoo Borough	R	O
27	06	TX	Motco Inc. *	La Marque	R F	O
28	05	OH	Arcanum Iron & Metal	Darke County	R F	
29	08	MT	East Helena Site	East Helena	V F	
30	06	TX	Sikes Disposal Pits	Crosby	R	O
31	04	AL	Triana/Tennessee River	Limestone/Morgan	V R F	O
32	09	CA	Stringfellow *	Glen Avon Heights	R F	O
33	01	ME	McKin Co.	Gray	R F S	O
34	06	TX	Crystal Chemical Co.	Houston	R	O
35	02	NJ	Bridgeport Rental & Oil Services	Bridgeport	R	O
36	08	CO	Sand Creek Industrial	Commerce City	R F	O
37	06	TX	Geneva Industries/Fuhrmann Energy	Houston	R F	O
38	01	MA	W. R. Grace & Co. (Acton Plant)	Acton	V F S	O
39	05	MN	Reilly Tar (St. Louis Park Plant)	St. Louis Park	R F S	O

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NATIONAL PRIORITIES LIST (BY RANK)

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#				CLEANUP STATUS@
			GROUP 1 (CON'T)						
40	02	NJ	Burnt Fly Bog	Marlboro Township		R		S	O
41	02	NJ	Vineland Chemical Co., Inc.	Vineland	V		F		
42	04	FL	Schuylkill Metals Corp.	Plant City				D	O
43	05	MN	New Brighton/Arden Hills	New Brighton	V	R			O
44	02	NY	Old Bethpage Landfill	Oyster Bay	V			S	
45	02	NJ	Shieldalloy Corp.	Newfield Borough	V			S	
46	04	FL	Reeves SE Galvanizing Corp.	Tampa				D	O
47	08	MT	Anaconda Co. Smelter	Anaconda	V		F		I
48	10	WA	Western Processing Co., Inc.	Kent	V	R	F	S	O
49	05	WI	Omega Hills North Landfill	Germantown				S	
50	04	FL	American Creosote (Pensacola)	Pensacola		R	F		O
			GROUP 2						
51	02	NJ	Caldwell Trucking Co.	Fairfield		R		S	
52	02	NY	GE Moreau	South Glen Falls	V		F	S	O
53	05	IN	Seymour Recycling Corp. *	Seymour	V	R	F		O
54	04	FL	Peak Oil Co./Bay Drum Co.	Tampa		R			
55	05	OH	United Scrap Lead Co., Inc.	Troy		R			O
56	06	OK	Tar Creek (Ottawa County)	Ottawa County		R			O
57	07	KS	Cherokee County	Cherokee County		R			I
58	02	NJ	Brick Township Landfill	Brick Township	V			S	
59	05	MI	Northernaire Plating	Cadillac		R			O
60	05	WI	Janesville Old Landfill	Janesville			F		
61	10	WA	Frontier Hard Chrome, Inc.	Vancouver		R			
62	04	SC	Independent Nail Co.	Beaufort		R			
63	04	SC	Kalama Specialty Chemicals	Beaufort				S	
64	05	WI	Janesville Ash Beds	Janesville			F		
65	04	FL	Davie Landfill	Davie				D	
66	05	OH	Miami County Incinerator	Troy			F		
67	04	FL	Gold Coast Oil Corp.	Miami				D	O
68	05	IN	International Minerals (E. Plant)	Terre Haute				D	
69	05	WI	Wheeler Pit	La Prairie Township				S	
70	09	AZ	Tucson Intl Airport Area	Tucson		R			
71	09	CA	Operating Industries, Inc. Lndfll	Monterey Park			F		
72	02	NY	Wide Beach Development	Brant		R			O

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NATIONAL PRIORITIES LIST (BY RANK)

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
			GROUP 2 (CON'T)			
73	09	CA	Iron Mountain Mine	Redding	R	
74	02	NJ	Scientific Chemical Processing	Carlstadt	V F S	O
75	08	CO	California Gulch	Leadville	F	
76	02	NJ	D'Imperio Property	Hamilton Township	R	
77	05	MN	Oakdale Dump	Oakdale	V	O
78	05	MI	Gratiot County Landfill *	St. Louis	V R F S	O
79	01	RI	Picillo Farm *	Coventry	R F S	O
80	01	MA	New Bedford Site *	New Bedford	V R F S	O
81	06	LA	Old Inger Oil Refinery *	Darrow	R	I
82	05	OH	Chem-Dyne *	Hamilton	V R F S	O
83	04	SC	SCRDI Bluff Road *	Columbia	V R F	O
84	01	CT	Laurel Park, Inc. *	Naugatuck Borough	V S	
85	08	CO	Marshall Landfill *	Boulder County	F	O
86	05	IL	Outboard Marine Corp. *	Waukegan	R F	
87	06	NM	South Valley *	Albuquerque	V R F	I
88	01	VT	Pine Street Canal *	Burlington	D	
89	03	WV	West Virginia Ordnance *	Point Pleasant	F	O
90	07	MO	Ellisville Site *	Ellisville	R F S	O
91	08	ND	Arsenic Trioxide Site *	Southeastern N.D.	R	I
92	03	VA	Matthews Electroplating *	Roanoke County	R	O
93	07	IA	Aidex Corp. *	Council Bluffs	R	O
94	09	AZ	Mountain View Mobile Home Estates	Globe	R F	C
95	04	TN	North Hollywood Dump *	Memphis	V R S	O
96	04	KY	A.L. Taylor (Valley of Drums) *	Brooks	R F	O
97	09	GU	Ordot Landfill *	Guam	R	
98	04	MS	Flowood Site *	Flowood	V	
99	08	UT	Rose Park Sludge Pit *	Salt Lake City	V	C
100	07	KS	Arkansas City Dump *	Arkansas City	R	
			GROUP 3			
101	05	IL	A & F Material Reclaiming, Inc.	Greenup	F	O
102	03	PA	Douglassville Disposal	Douglassville	R	
103	02	NJ	Krysowaty Farm	Hillsborough	R	O
104	05	MN	Koppers Coke	St. Paul	V S	
105	01	MA	Plymouth Harbor/Cannon Engnrng	Plymouth	V R S	O

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GROUP 3 (CON'T)

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#					CLEANUP STATUS@
106	10	ID	Bunker Hill Mining & Metallurg	Smelterville			F	S		
107	02	NY	Hudson River PCBs	Hudson River		R				I
108	02	NJ	Universal Oil Products(Chem Div)	East Rutherford	V			S		
109	09	CA	Aerojet General Corp.	Rancho Cordova			F			I
110	10	WA	Com Bay, South Tacoma Channel	Tacoma	V	R	F	S		O
111	03	PA	Osborne Landfill	Grove City	V			S		
112	08	UT	Portland Cement (Kiln Dust 2 & 3)	Salt Lake City	V			S		
113	01	CT	Old Southington Landfill	Southington				S		
114	02	NY	Syosset Landfill	Oyster Bay					D	
115	09	AZ	Nineteenth Avenue Landfill	Phoenix				S		
116	10	OR	Teledyne Wah Chang	Albany					D	
117	10	WA	Midway Landfill	Kent		R				I
118	02	NY	Sinclair Refinery	Wellsville		R				
119	04	AL	Mowbray Engineering Co.	Greenville		R				O
120	05	MI	Spiegelberg Landfill	Green Oak Township		R				O
121	04	FL	Miami Drum Services	Miami		R				O
122	02	NJ	Reich Farms	Pleasant Plains		R				
123	10	ID	Union Pacific Railroad Co.	Pocatello					D	
124	02	NJ	South Brunswick Landfill°	South Brunswick	V		F			O
125	04	AL	Ciba-Geigy Corp. (McIntosh Plant)	McIntosh					D	I
126	04	FL	Kassauf-Kimerling Battery	Tampa	V	R	F			
127	05	IL	Wauconda Sand & Gravel	Wauconda		R				
128	06	TX	Bailey Waste Disposal	Bridge City		R				
129	01	NH	Ottati & Goss/Kingston Steel Drum	Kingston	V	R	F	S		O
130	05	MI	Ott/Story/Cordova	Dalton Township		R	F			O
131	05	MI	Thermo-Chem, Inc.	Muskegon					D	
132	02	NJ	NL Industries	Pedricktown					D	
133	05	MN	St. Regis Paper Co.	Cass Lake				S		I
134	02	NJ	Ringwood Mines/Landfill	Ringwood Borough	V		F			
135	04	FL	Whitehouse Oil Pits	Whitehouse		R				O
136	04	GA	Hercules 009 Landfill	Brunswick					D	
137	05	MI	Velsicol Chemical (Michigan)	St. Louis	V			S		I
138	05	OH	Summit National	Deerfield Township		R				O
139	02	NY	Love Canal	Niagara Falls		R	F	S		O
140	05	MN	Pine Bend Sanitary Landfill	Dakota County				S		
141	07	IA	Lawrence Todtz Farm	Camanche					D	
142	05	IN	Fisher-Calo	LaPorte			F			
143	04	FL	Pioneer Sand Co.	Warrington		R		S		

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			GROUP 3 (CON'T)						
144	05	MI	Springfield Township Dump	Davisburg		R			
145	03	PA	Hranica Landfill	Buffalo Township				D	O
146	04	NC	Martin Marietta, Sodyeco, Inc.	Charlotte	V				
147	04	FL	Zellwood Ground Water Contam	Zellwood			F		
148	05	MI	Packaging Corp. of America	Filer City	V		F		
149	05	WI	Muskego Sanitary Landfill	Muskego			F		
150	02	NY	Hooker (S Area)	Niagara Falls			F	S	
			GROUP 4						
151	03	PA	Lindane Dump	Harrison Township				D	O
152	08	CO	Central City-Clear Creek	Idaho Springs		R			
153	02	NJ	Ventron/Velsicol	Wood Ridge Borough	V	R		S	
154	04	FL	Taylor Road Landfill	Seffner	V		F		O
155	01	RI	Western Sand & Gravel	Burrillville		R		S	O
156	04	SC	Koppers Co., Inc (Florence Plant)	Florence				S	
157	02	NJ	Maywood Chemical Co.	Maywood/Rochelle Pk		R			O
158	02	NJ	Nascolite Corp.	Millville		R			
159	05	OH	Industrial Excess Landfill	Uniontown		R		S	I
160	06	OK	Hardage/Criner	Criner			F		
161	05	MI	Rose Township Dump	Rose Township		R			
162	05	MN	Waste Disposal Engineering	Andover	V	R	F	S	
163	02	NY	Liberty Industrial Finishing	Farmingdale	V			S	
164	02	NJ	Kin-Buc Landfill	Edison Township	V	R	F		O
165	05	OH	Bowers Landfill	Circleville	V		F		
166	02	NJ	Ciba-Geigy Corp.	Toms River	V		F		
167	05	MI	Butterworth #2 Landfill	Grand Rapids			F		
168	02	NJ	American Cyanamid Co.	Bound Brook	V			S	
169	03	PA	Heleva Landfill	North Whitehall Twp	V	R	F		O
170	02	NJ	Ewan Property	Shamong Township		R			
171	02	NY	Batavia Landfill	Batavia	V		F		
172	05	MN	Boise Cascade/Onan/Medtronics	Fridley				S	O
173	01	RI	L&RR, Inc.	North Smithfield				S	
174	04	FL	NW 58th Street Landfill	Hialeah		R			
175	02	NJ	Delilah Road	Egg Harbor Township		R			
176	03	PA	Mill Creek Dump	Erie		R			O

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NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
			GROUP 4 (CON'T)			
177	02	NJ	Glen Ridge Radium Site	Glen Ridge	R	O
178	02	NJ	Montclair/West Orange Radium Site	Montclair/W Orange	R	O
179	04	FL	Sixty-Second Street Dump	Tampa	R	
180	05	MI	G&H Landfill	Utica	R	
181	04	NC	Celanese(Shelby Fiber Operations)	Shelby	D	
182	02	NJ	Metaltec/Aerosystems	Franklin Borough	R	
183	05	WI	Schmalz Dump	Harrison	R	
184	05	MI	Motor Wheel, Inc.	Lansing	D	O
185	02	NJ	Lang Property	Pemberton Township	F	
186	06	TX	Stewco, Inc.	Waskom	R F	O
187	02	NJ	Sharkey Landfill	Parsippany Troy Hls	R	
188	09	CA	Selma Treating Co.	Selma	F	
189	06	LA	Cleve Reber	Sorrento	V R	I
190	05	IL	Velsicol Chemical (Illinois)	Marshall	R	C
191	05	MI	Tar Lake	Mancelona Township	F	
192	02	NY	Johnstown City Landfill	Town of Johnstown	D	
193	04	NC	NC State U (Lot 86, Farm Unit #1)	Raleigh	D	
194	08	CO	Lowry Landfill	Arapahoe County	V R	O
195	05	MN	MacGillis & Gibbs/Bell Lumber	New Brighton	R S	I
196	03	PA	Hunterstown Road	Straban Township	R F	O
197	02	NJ	Combe Fill North Landfill	Mount Olive Twp	R	
198	01	MA	Re-Solve, Inc.	Dartmouth	R F	I
199	02	NJ	Goose Farm	Plumstead Township	V R F S	O
200	04	TN	Velsicol Chem (Hardeman County)	Toone	D	O
			GROUP 5			
201	02	NY	York Oil Co.	Moira	R F	O
202	04	FL	Sapp Battery Salvage	Cottondale	R	O
203	04	SC	Wamchem, Inc.	Burton	D	
204	02	NJ	Chemical Leaman Tank Lines, Inc.	Bridgeport	V F	
205	05	WI	Master Disposal Service Landfill	Brookfield	R	
206	07	KS	Doepke Disposal Site (Holliday)	Johnson County	R	
207	02	NJ	Florence Land Recontouring LF	Florence Township	R	
208	01	RI	Davis Liquid Waste	Smithfield	R S	O
209	01	MA	Charles-George Reclamation Lf	Tyngsborough	R F	O

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NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#				CLEANUP STATUS@
			GROUP 5 (CON'T)						
210	02	NJ	King of Prussia	Winslow Township	V		F		
211	03	VA	Chisman Creek	York County		R			
212	05	OH	Nease Chemical	Salem	V			S	I
213	08	CO	Eagle Mine	Minturn/Redcliff		R		S	O
214	02	NJ	W. R. Grace & Co. (Wayne Plant)	Wayne Township		R			O
215	02	NJ	Chemical Control	Elizabeth		R		S	O
216	04	SC	Leonard Chemical Co., Inc.	Rock Hill				S	O
217	05	OH	Allied Chemical & Ironton Coke	Ironton		R	F		I
218	05	MI	Verona Well Field	Battle Creek		R			I
219	07	MO	Lee Chemical	Liberty				D	O
220	01	CT	Beacon Heights Landfill	Beacon Falls		R			
221	04	AL	Stauffer Chem (Cold Creek Plant)	Bucks	V				
222	05	MN	Burlington Northern (Brainerd)	Brainerd/Baxter	V				O
223	05	MI	Torch Lake	Houghton County				D	
224	01	RI	Central Landfill	Johnston	V		F	S	
225	03	PA	Malvern TCE	Malvern				D	O
226	02	NY	Facet Enterprises, Inc.	Elmira	V		F		
227	03	DE	Delaware Sand & Gravel Landfill	New Castle County		R			O
228	03	PA	MW Manufacturing	Valley Township				S	
229	04	TN	Murray-Ohio Dump	Lawrenceburg	V			S	
230	05	IN	Envirochem Corp.	Zionsville	V	R	F		O
231	05	IN	MIDCO I	Gary			F		O
232	05	OH	South Point Plant	South Point			F		I
233	03	PA	Whitmoyer Laboratories	Jackson Township				D	
234	04	FL	Coleman-Evans Wood Preserving Co.	Whitehouse		R	F	S	O
235	03	PA	Shriver's Corner	Straban Township		R	F		O
236	03	PA	Dorney Road Landfill	Upper Macungie Twp		R			
237	05	IN	Northside Sanitary Landfill, Inc	Zionsville			F	S	
238	04	FL	Florida Steel Corp.	Indiantown	V				O
239	05	IL	Pagel's Pit	Rockford				D	O
240	05	MN	U of Minnesota Rosemount Res Cent	Rosemount				S	
241	05	MN	Freeway Sanitary Landfill	Burnsville				D	
242	09	AZ	Litchfield Airport Area	Goodyear/Avondale			F		
243	02	NJ	Spence Farm	Plumstead Township	V	R		S	I
244	06	AR	Mid-South Wood Products	Mena			F		
245	04	MS	Newsom Brothers/Old Reichhold	Columbia		R			O
246	09	CA	Atlas Asbestos Mine	Fresno County		R			
247	09	CA	Coalinga Asbestos Mine	Coalinga		R			

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			GROUP 5 (CON'T)			
248	04	FL	Brown Wood Preserving	Live Oak	V F	
249	02	NY	Port Washington Landfill	Port Washington	R	O
250	05	IN	Columbus Old Municipal Lndfll #1	Columbus	D	
			GROUP 6			
251	02	NJ	Combe Fill South Landfill	Chester Township	R	
252	02	NJ	JIS Landfill	Jamesburg/S. Brnswck	S	
253	02	NY	Tronic Plating Co., Inc.	Farmingdale	D	
254	03	PA	Centre County Kepone	State College Boro	S	O
255	05	OH	Fields Brook	Ashtabula	R	I
256	01	CT	Solvents Recovery Service	Southington	F	I
257	08	CO	Woodbury Chemical Co.	Commerce City	R	
258	02	NJ	Waldick Aerospace Devices, Inc.	Wall Township	R S	O
259	01	MA	Hocomonco Pond	Westborough	R	
260	04	KY	Distler Brickyard	West Point	R F	O
261	02	NY	Ramapo Landfill	Ramapo	V S	
262	09	CA	Coast Wood Preserving	Ukiah	S	
263	09	CA	South Bay Asbestos Area	Alviso	R	I
264	02	NY	Mercury Refining, Inc.	Colonie	V S	
265	04	FL	Hollingsworth Solderless Terminal	Fort Lauderdale	R	
266	02	NY	Olean Well Field	Olean	V R F	O
267	04	FL	Varsol Spill	Miami	R	
268	05	MN	Joslyn Manufacturing & Supply Co.	Brooklyn Center	V S	
269	08	CO	Denver Radium Site	Denver	R	I
270	04	FL	Tower Chemical Co.	Clermont	R F	O
271	07	MO	Syntex Facility	Verona	V F	I
272	08	MT	Milltown Reservoir Sediments	Milltown	R	I
273	05	MN	Arrowhead Refinery Co.	Hermantown	R	I
274	10	OR	Martin-Marietta Aluminum Co.	The Dalles	V	
275	08	CO	Uravan Uranium (Union Carbide)	Uravan	D	
276	02	NJ	Pijak Farm	Plumstead Township	V R S	I
277	02	NJ	Syncon Resins	South Kearny	R	O
278	05	MN	Oak Grove Sanitary Landfill	Oak Grove Township	R	
279	09	CA	Liquid Gold Oil Corp.	Richmond	S	
280	09	CA	Purity Oil Sales, Inc.	Malaga	R	O

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			GROUP 6 (CON'T)			
281	01	NH	Tinkham Garage	Londonderry	F S	O
282	04	FL	Alpha Chemical Corp.	Galloway	V	
283	02	NJ	Bog Creek Farm	Howell Township	R	
284	01	ME	Saco Tannery Waste Pits	Saco	R	O
285	02	PR	Frontera Creek	Rio Abajo	F	
286	04	FL	Pickettville Road Landfill	Jacksonville	V F	
287	05	OH	Alsco Anaconda	Gnadenhutten	S	
288	01	MA	Iron Horse Park	Billerica	R	O
289	03	PA	Palmerton Zinc Pile	Palmerton	V F	
290	05	IN	Neal's Landfill (Bloomington)	Bloomington	V F	
291	05	WI	Kohler Co. Landfill	Kohler	V	
292	04	AL	Interstate Lead Co. (ILCO)	Leeds	V R F S	O
293	01	MA	Silresim Chemical Corp.	Lowell	R S	O
294	01	MA	Wells G&H	Woburn	V F	
295	02	NJ	Chemsol, Inc.	Piscataway	V S	
296	05	WI	Lauer I Sanitary Landfill	Menomonee Falls	S	
297	05	MI	Petoskey Municipal Well Field	Petoskey	F	
298	05	MN	Union Scrap	Minneapolis	S	
299	02	NJ	Radiation Technology, Inc.	Rockaway Township	V S	
300	02	NJ	Fair Lawn Well Field	Fair Lawn	V S	
			GROUP 7			
301	05	IN	Main Street Well Field	Elkhart	R	
302	05	MN	Lehillier/Mankato Site	Lehillier/Mankato	R	O
303	10	WA	Lakewood Site	Lakewood	R	O
304	03	PA	Industrial Lane	Williams Township	F	
305	05	IN	Fort Wayne Reduction Dump	Fort Wayne	R	
306	05	WI	Onalaska Municipal Landfill	Onalaska	R	
307	05	WI	National Presto Industries, Inc.	Eau Claire	D	
308	02	NJ	Monroe Township Landfill	Monroe Township	V S	O
309	02	NJ	Rockaway Borough Well Field	Rockaway Township	R	
310	05	IN	Wayne Waste Oil	Columbia City	R F	
311	03	MD	Mid-Atlantic Wood Preservers, Inc	Harmans	D	
312	10	ID	Pacific Hide & Fur Recycling Co.	Pocatello	F	O
313	07	IA	Des Moines TCE	Des Moines	R	I

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NATIONAL PRIORITIES LIST (BY RANK)

GROUP 7 (CON'T)

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
314	02	NJ	Beachwood/Berkley Wells	Berkley Township	R	O
315	02	NY	Vestal Water Supply Well 4-2	Vestal	V S	
316	02	PR	Vega Alta Public Supply Wells	Vega Alta	F	
317	05	MI	Sturgis Municipal Wells	Sturgis	R	
318	05	MN	Washington County Landfill	Lake Elmo	S	
319	06	TX	Odessa Chromium #1	Odessa	R	
320	06	TX	Odessa Chromium #2 (Andrews Hgwy)	Odessa	R	
321	07	NE	Hastings Ground Water Contamin	Hastings	R	
322	09	AZ	Indian Bend Wash Area	Scottsdale/Tempe	V F	
323	09	CA	San Gabriel Valley (Area 1)	El Monte	R	I
324	09	CA	San Gabriel Valley (Area 2)	Baldwin Park Area	R	
325	09	CA	San Fernando Valley (Area 1)	Los Angeles	D	
326	09	CA	San Fernando Valley (Area 2)	Los Angeles/Glendale	D	
327	09	CA	San Fernando Valley (Area 3)	Glendale	D	
328	09	CA	T.H. Agriculture & Nutrition Co.	Fresno	D	
329	10	WA	Com Bay, Near Shore/Tide Flats	Pierce County	R F S	
330	05	IL	LaSalle Electric Utilities	LaSalle	R	I
331	05	IL	Cross Brothers Pail (Pembroke)	Pembroke Township	R	I
332	04	NC	Jadco-Hughes Facility	Belmont	D	
333	02	NJ	Monitor Devices/Intercircuits Inc	Wall Township	D	
334	02	PR	Upjohn Facility	Barceloneta	D	O
335	09	CA	McColl	Fullerton	R F	I
336	03	PA	Henderson Road	Upper Merion Twp	V F	
337	02	NY	Hooker Chemical/Ruco Polymer Corp	Hicksville	D	
338	10	WA	Colbert Landfill	Colbert	R	O
339	06	LA	Petro-Processors	Scotlandville	V F	
340	02	NY	Applied Environmental Services	Glenwood Landing	S	I
341	02	PR	Barceloneta Landfill	Florida Afuera	D	
342	01	NH	Tibbets Road	Barrington	R	O
343	03	MD	Sand, Gravel & Stone	Elkton	V R F	O
344	05	MI	Spartan Chemical Co.	Wyoming	V S	
345	02	NJ	Roebling Steel Co.	Florence	R	
346	03	PA	East Mount Zion	Springettsbury Twp	R	
347	04	TN	Amnicola Dump	Chattanooga	R	
348	02	NJ	Vineland State School	Vineland	V S	I
349	01	MA	Groveland Wells	Groveland	V R S	
350	02	NY	General Motors (Cent Foundry Div)	Massena	V F	

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NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#					CLEANUP STATUS@
			GROUP 8							
351	04	SC	SCRDI Dixiana	Cayce		R	F	S		O
352	05	MI	Roto-Finish Co., Inc.	Kalamazoo					D	O
353	05	MN	Olmsted County Sanitary Landfill	Oronoco					D	
354	07	MO	Quality Plating	Sikeston					D	
355	07	MO	Fulbright Landfill	Springfield					D	
356	03	PA	Presque Isle	Erie		R				
357	02	NJ	Williams Property	Swainton		R				
358	02	NJ	Renora, Inc.	Edison Township	V		F			O
359	02	NJ	Denzer & Schafer X-Ray Co.	Bayville	V			S		
360	02	NJ	Hercules, Inc. (Gibbstown Plant)	Gibbstown					D	
361	05	IN	Ninth Avenue Dump	Gary		R				
362	10	WA	Toftdahl Drums	Brush Prairie		R				O
363	06	TX	Texarkana Wood Preserving Co.	Texarkana					D	
364	06	AR	Gurley Pit	Edmondson			F			
365	01	RI	Peterson/Puritan, Inc.	Lincoln/Cumberland					D	
366	07	MO	Times Beach Site	Times Beach		R				O
367	05	MI	Wash King Laundry	Pleasant Plains Twp		R				
368	05	MN	Whittaker Corp.	Minneapolis				S		
369	05	MN	NL Industries/Taracorp/Golden	St. Louis Park				S		I
370	09	CA	Westinghouse (Sunnyvale Plant)	Sunnyvale					D	
371	01	CT	Kellogg-Deering Well Field	Norwalk		R				
372	01	MA	Cannon Engineering Corp. (CEC)	Bridgewater		R		S		
373	05	MI	H. Brown Co., Inc.	Grand Rapids					D	
374	02	NY	Nepera Chemical Co., Inc.	Maybrook	V					
375	02	NY	Niagara County Refuse	Wheatfield					D	
376	04	FL	Sherwood Medical Industries	Deland					D	
377	04	AL	Olin Corp. (McIntosh Plant)	McIntosh					D	
378	05	MI	Southwest Ottawa County Landfill	Park Township	V			S		
379	02	NY	Kentucky Avenue Well Field	Horseheads		R				
380	02	NY	Pasley Solvents & Chemicals, Inc.	Hempstead					D	
381	02	NJ	Asbestos Dump	Millington	V		F			
382	04	KY	Lee's Lane Landfill	Louisville	V		F			O
383	06	AR	Frit Industries	Walnut Ridge	V		F			C
384	05	OH	Fultz Landfill	Jackson Township		R				I
385	04	FL	Tri-City Oil Conservationist, Inc	Tampa		R	F			O
386	05	OH	Coshocton Landfill	Franklin Township			F			O
387	01	RI	Davis (GSR) Landfill	Glocester					D	
388	03	PA	Lord-Shope Landfill	Girard Township	V			S		O

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			GROUP 8 (CON'T)			
389	10	WA	FMC Corp. (Yakima Pit)	Yakima	S	
390	05	WI	Northern Engraving Co.	Sparta	V F	
391	06	TX	South Cavalcade Street	Houston	V F	
392	01	MA	PSC Resources	Palmer	S	O
393	05	MI	Forest Waste Products	Otisville	R F	
394	03	PA	Drake Chemical	Lock Haven	R	O
395	01	NH	Kearsarge Metallurgical Corp.	Conway	S	
396	04	SC	Palmetto Wood Preserving	Dixianna	R	O
397	05	IL	Petersen Sand & Gravel	Libertyville	R	
398	05	MI	Clare Water Supply	Clare	R F	
399	03	PA	Havertown PCP	Haverford	F	O
400	03	DE	New Castle Spill	New Castle County	D	
			GROUP 9			
401	08	MT	Idaho Pole Co.	Bozeman	D	I
402	05	IN	Lake Sandy Jo (M&M Landfill)	Gary	R	
403	05	IL	Johns-Manville Corp.	Waukegan	F	
404	05	MI	Chem Central	Wyoming Township	S	
405	05	MI	Novaco Industries	Temperance	R	
406	05	MN	Windom Dump	Windom	D	
407	02	NJ	Jackson Township Landfill	Jackson Township	D	O
408	05	IL	NL Industries/Taracorp Lead Smelt	Granite City	V F S	
409	05	MI	K&L Avenue Landfill	Oshtemo Township	F	
410	10	WA	Kaiser Aluminum Mead Works	Mead	V	
411	05	MN	Perham Arsenic Site	Perham	R	O
412	05	MI	Charlevoix Municipal Well	Charlevoix	R	I
413	02	NJ	Montgomery Township Housing Dev	Montgomery Township	R	
414	02	NJ	Rocky Hill Municipal Well	Rocky Hill Borough	R	
415	02	NJ	Cinnaminson Ground Water Contamin	Cinnaminson Township	R	
416	02	NY	Brewster Well Field	Putnam County	R	
417	02	NY	Vestal Water Supply Well 1-1	Vestal	R	
418	04	NC	Bypass 601 Ground Water Contamin	Concord	D	
419	07	MO	Solid State Circuits, Inc.	Republic	R F S	O
420	07	NE	Waverly Ground Water Contamin	Waverly	R	
421	09	CA	Advanced Micro Devices, Inc.	Sunnyvale	D	

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			GROUP 9 (CON'T)							
422	05	MN	Nutting Truck & Caster Co.	Faribault				S		
423	02	NJ	U.S. Radium Corp.	Orange		R				
424	06	TX	Highlands Acid Pit	Highlands		R				
425	03	PA	Resin Disposal	Jefferson Borough					D	O
426	08	MT	Libby Ground Water Contamination	Libby			F			
427	04	KY	Newport Dump	Newport		R				
428	03	PA	Moyers Landfill	Eagleville		R				
429	04	FL	Parramore Surplus	Mount Pleasant					D	
430	01	NH	Savage Municipal Water Supply	Milford			F			
431	05	IN	Poer Farm	Hancock County		R	F			O
432	03	PA	Brown's Battery Breaking	Shoemakersville		R	F			O
433	02	NY	SMS Instruments, Inc.	Deer Park					D	
434	05	MI	Hedblum Industries	Oscoda			F			
435	06	TX	United Creosoting Co.	Conroe		R	F			O
436	02	NY	Byron Barrel & Drum	Byron		R	F			O
437	08	WY	Baxter/Union Pacific Tie Treating	Laramie	V		F	S		O
438	02	NY	Anchor Chemicals	Hicksville					D	
439	05	MI	Waste Management-Mich (Holland)	Holland					D	
440	06	TX	North Cavalcade Street	Houston		R				
441	02	NJ	Sayreville Landfill	Sayreville					D	
442	01	NH	Dover Municipal Landfill	Dover		R				
443	02	NY	Ludlow Sand & Gravel	Clayville	V			S		
444	05	WI	City Disposal Corp. Landfill	Dunn			F	S		
445	02	NJ	Tabernacle Drum Dump	Tabernacle Township	V	R	F			O
446	02	NJ	Cooper Road	Voorhees Township	V			S		O
447	07	MO	Minker/Stout/Romaine Creek	Imperial		R				O
448	01	CT	Yaworski Waste Lagoon	Canterbury		R		S		
449	03	WV	Leetown Pesticide	Leetown		R				O
450	04	FL	Cabot/Koppers	Gainesville		R		S		O
			GROUP 10							
451	02	NJ	Evor Phillips Leasing	Old Bridge Township		R				
452	03	PA	Wade (ABM)	Chester		R	F	S		O
453	03	PA	Lackawanna Refuse	Old Forge Borough		R				O
454	06	OK	Compass Industries (Avery Drive)	Tulsa		R				

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			GROUP 10 (CON'T)							
455	02	NJ	Mannheim Avenue Dump	Galloway Township	V		F			I
456	05	IN	Neal's Dump (Spencer)	Spencer			F	S		O
457	02	NY	Fulton Terminals	Fulton		R				
458	03	PA	Westinghouse Elevator Co. Plant	Gettysburg		R	F			O
459	01	NH	Auburn Road Landfill	Londonderry			F	S		
460	03	WV	Fike Chemical, Inc.	Nitro			F			O
461	05	MN	General Mills/Henkel Corp.	Minneapolis				S		
462	05	OH	Laskin/Poplar Oil Co.	Jefferson Township	V	R	F			O
463	05	OH	Old Mill	Rock Creek		R				O
464	07	KS	Johns' Sludge Pond	Wichita	V		F			I
465	05	WI	Stoughton City Landfill	Stoughton					D	
466	09	CA	Del Norte Pesticide Storage	Crescent City		R				
467	02	NJ	De Rewal Chemical Co.	Kingwood Township			F			
468	03	PA	Middletown Air Field	Middletown					D	O
469	02	NJ	Swope Oil & Chemical Co.	Pennsauken	V	R	F			O
470	04	GA	Monsanto Corp. (Augusta Plant)	Augusta	V					O
471	01	NH	South Municipal Water Supply Well	Peterborough			F	S		
472	01	ME	Winthrop Landfill	Winthrop	V		F	S		O
473	03	WV	Ordnance Works Disposal Areas	Morgantown			F			
474	06	AR	Cecil Lindsey	Newport		R				I
475	05	OH	Zanesville Well Field	Zanesville	V			S		
476	02	NY	Suffern Village Well Field	Village of Suffern		R				
477	02	NY	Endicott Village Well Field	Village of Endicott		R				
478	05	MN	Kummer Sanitary Landfill	Bemidji		R				I
479	05	OH	Sanitary Landfill Company (IWD)	Dayton					D	
480	05	WI	Eau Claire Municipal Well Field	Eau Claire		R				
481	07	MO	Valley Park TCE	Valley Park					D	
482	09	CA	San Fernando Valley (Area 4)	Los Angeles					D	
483	04	GA	Powersville Site	Peach County		R				
484	05	MI	Grand Traverse Overall Supply Co.	Greilickville			F			
485	05	MI	Metamora Landfill	Metamora		R				I
486	05	MI	Whitehall Municipal Wells	Whitehall		R				
487	05	MN	South Andover Site	Andover		R				O
488	02	NJ	Diamond Alkali Co.	Newark	V	R	F	S		O
489	03	VA	Avtex Fibers, Inc.	Front Royal					D	
490	05	MI	Kentwood Landfill	Kentwood	V		F			
491	05	MI	Electrovoice	Buchanan					D	
492	02	NY	Katonah Municipal Well	Town of Bedford		R				O

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			GROUP 10 (CON'T)			
493	02	PR	Fibers Public Supply Wells	Jobos	D	
494	05	IN	Marion (Bragg) Dump	Marion	R	
495	05	OH	Pristine, Inc.	Reading	R F	I
496	05	WI	Mid-State Disposal, Inc. Landfill	Cleveland Township	R	
497	04	TN	American Creosote (Jackson Plant)	Jackson	R	O
498	08	CO	Broderick Wood Products	Denver	V F	
499	05	OH	Buckeye Reclamation	St. Clairsville	V F	I
500	02	NY	Preferred Plating Corp.	Farmingdale	D	
			GROUP 11			
501	06	TX	Bio-Ecology Systems, Inc.	Grand Prairie	R	O
502	08	UT	Monticello Rad Contaminated Props	Monticello	R	I
503	02	NJ	Woodland Route 532 Dump	Woodland Township	V R S	
504	05	IN	American Chemical Service, Inc.	Griffith	F	
505	01	MA	Salem Acres	Salem	D	
506	01	VT	Old Springfield Landfill	Springfield	V F	O
507	02	NY	Solvent Savers	Lincklaen	D	
508	03	VA	U.S. Titanium	Piney River	F S	O
509	05	IL	Galesburg/Koppers Co.	Galesburg	S	
510	02	NY	Hooker (Hyde Park)	Niagara Falls	V F S	
511	05	MI	SCA Independent Landfill	Muskegon Heights	S	
512	09	CA	MGM Brakes	Cloverdale	S	
513	06	LA	Bayou Sorrell	Bayou Sorrell	F	
514	05	MI	Duell & Gardner Landfill	Dalton Township	D	
515	10	WA	Mica Landfill	Mica	D	
516	02	NJ	Ellis Property	Evesham Township	R	O
517	04	KY	Distler Farm	Jefferson County	R F	O
518	10	WA	Harbor Island (Lead)	Seattle	D	
519	05	WI	Lemberger Transport & Recycling	Franklin Township	R	
520	05	OH	E.H. Schilling Landfill	Hamilton Township	R	I
521	05	MI	Cliff/Dow Dump	Marquette	F	
522	02	NY	Clothier Disposal	Town of Granby	R	
523	03	PA	Ambler Asbestos Piles	Ambler	V R F S	O
524	10	WA	Queen City Farms	Maple Valley	V	I
525	03	VA	L.A. Clarke & Son	Spotsylvania County	R	

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			GROUP 11 (CON'T)						
526	05	WI	Scrap Processing Co., Inc.	Medford			S		
527	03	MD	Southern Maryland Wood Treating	Hollywood		R			O
528	06	NM	Homestake Mining Co.	Milan	V		F		O
529	09	CA	Beckman Instruments (Porterville)	Porterville				D	
530	04	FL	Dubose Oil Products Co.	Cantonment			S		O
531	05	MI	Mason County Landfill	Pere Marquette Twp		R	F		
532	05	MI	Cemetery Dump	Rose Center		R			
533	02	NJ	Hopkins Farm	Plumstead Township				D	
534	01	RI	Stamina Mills, Inc.	North Smithfield				D	
535	05	WI	Lemberger Landfill, Inc.	Whitelaw			S		
536	05	IN	Reilly Tar (Indianapolis Plant)	Indianapolis			F		
537	01	ME	Pinette's Salvage Yard	Washburn		R			O
538	06	TX	Harris (Farley Street)	Houston	V		F		
539	02	NJ	Wilson Farm	Plumstead Township				D	
540	03	PA	Old City of York Landfill	Seven Valleys	V		S		
541	03	PA	Modern Sanitation Landfill	Lower Windsor Twp	V		S		
542	05	IL	Byron Salvage Yard	Byron		R			I
543	05	MI	North Bronson Industrial Area	Bronson				D	
544	03	PA	Stanley Kessler	King of Prussia			F		O
545	02	NJ	Imperial Oil/Champion Chemicals	Morganville		R			
546	02	NJ	Myers Property	Franklin Township		R			O
547	02	NJ	Pepe Field	Boonton		R			
548	10	WA	Northwest Transformer	Everson		R			O
549	05	WI	Sheboygan Harbor & River	Sheboygan				D	
550	05	MI	Ossineke Ground Water Contam	Ossineke				D	
			GROUP 12						
551	03	WV	Follansbee Site	Follansbee	V		F		I
552	02	NY	North Sea Municipal Landfill	North Sea		R			O
553	09	CA	Koppers Co.,Inc. (Oroville Plant)	Oroville			S		
554	09	CA	Louisiana-Pacific Corp.	Oroville				D	
555	05	MI	South Macomb Disposal (Lf 9 & 9A)	Macomb Township				D	
556	05	MI	U.S. Aviex	Howard Township	V		F		
557	03	PA	Walsh Landfill	Honeybrook Township		R	F		I
558	02	NJ	Landfill & Development Co.	Mount Holly			S		

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			GROUP 12 (CON'T)							
559	02	NJ	Upper Deerfield Township Slf	Upper Deerfield Twp					D	
560	02	NY	Hertel Landfill	Plattekill					D	
561	02	NY	Haviland Complex	Town of Hyde Park		R				
562	05	MN	Adrian Municipal Well Field	Adrian		R				
563	06	NM	AT & SF (Clovis)	Clovis	V		F			
564	07	KS	Strother Field Industrial Park	Cowley County	V			S		O
565	02	NJ	Fried Industries	East Brunswick Twp		R				O
566	02	NY	American Thermostat Co.	South Cairo	V			S		
567	04	TN	Lewisburg Dump	Lewisburg					D	
568	05	MI	McGraw Edison Corp.	Albion	V			S		
569	02	NY	Goldisc Recordings, Inc.	Holbrook	V					
570	04	KY	Aimco	Calvert City	V					
571	03	PA	Metal Banks	Philadelphia	V		F			O
572	02	NY	Sarney Farm	Amenia		R				
573	01	MA	Rose Disposal Pit	Lanesboro			F	S		
574	05	OH	Van Dale Junkyard	Marietta					D	
575	04	KY	B.F. Goodrich	Calvert City	V					
576	05	MI	Organic Chemicals, Inc.	Grandville				S		
577	02	NY	Volney Municipal Landfill	Town of Volney	V	R		S		O
578	02	NY	FMC Corp. (Dublin Road Landfill)	Town of Shelby	V			S		
579	01	MA	Sullivan's Ledge	New Bedford		R	F			
580	04	KY	Smith's Farm	Brooks		R				O
581	02	PR	Juncos Landfill	Juncos	V		F			O
582	07	KS	Big River Sand Co.	Witchita		R				
583	05	IN	Bennett Stone Quarry	Bloomington	V		F			O
584	04	FL	Munisport Landfill	North Miami					D	
585	04	AL	Stauffer Chem (LeMoyne Plant)	Axis	V					
586	02	NJ	M&T Delisa Landfill	Asbury Park	V		F			
587	06	TX	Crystal City Airport	Crystal City		R				O
588	04	SC	Geiger (C & M Oil)	Rantoules		R				
589	05	WI	Moss-American(Kerr-McGee Oil Co.)	Milwaukee		R	F			
590	05	WI	Waste Research & Reclamation Co.	Eau Claire				S		
591	10	OR	Gould, Inc.	Portland	V					I
592	02	NY	Cortese Landfill	Vil of Narrowsburg	V			S		
593	05	MN	St. Louis River Site	St. Louis County		R				I
594	05	MI	Auto Ion Chemicals, Inc.	Kalamazoo	V		F			O
595	04	SC	Carolawn, Inc.	Fort Lawn	V	R	F			O
596	07	IA	Midwest Manufacturing/North Farm	Kellogg					D	

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NATIONAL PRIORITIES LIST (BY RANK)

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#				CLEANUP STATUS@
			GROUP 12 (CON'T)						
597	03	PA	Berks Sand Pit	Longswamp Township		R			O
598	05	MI	Sparta Landfill	Sparta Township			S		
599	05	IL	ACME Solvent (Morristown Plant)	Morristown	V	R			I
600	02	NJ	Pomona Oaks Residential Wells	Galloway Township		R			O
			GROUP 13						
601	04	FL	Hipps Road Landfill	Duval County		R			O
602	05	MN	Long Prairie Ground Water Contam	Long Prairie		R			
603	05	MN	Waite Park Wells	Waite Park		R			
604	09	CA	Intel Magnetics	Santa Clara				D	
605	09	CA	Intel Corp. (Santa Clara III)	Santa Clara				D	
606	04	FL	Pepper Steel & Alloys, Inc.	Medley		R	F		O
607	01	ME	O'Connor Co.	Augusta	V	R			
608	05	WI	Oconomowoc Electroplating Co. Inc	Ashippin		R			
609	05	MI	Rasmussen's Dump	Green Oak Township		R			O
610	02	NY	Kenmark Textile Corp.	Farmingdale				D	I
611	03	PA	Westline Site	Westline		R			O
612	04	KY	Maxey Flats Nuclear Disposal	Hillsboro		R			
613	08	MT	Mouat Industries	Columbus				D	
614	02	NY	Claremont Polychemical	Old Bethpage	V		S		
615	05	OH	Powell Road Landfill	Dayton		R			I
616	03	PA	Croydon TCE	Croydon				D	
617	07	IA	Vogel Paint & Wax Co.	Orange City			S		
618	05	MN	Kurt Manufacturing Co.	Fridley			S		
619	05	MI	Ionia City Landfill	Ionia	V		F		I
620	06	TX	Koppers Co., Inc. (Texarkana Pit)	Texarkana	V		F		
621	08	CO	Lincoln Park	Canon City			F		
622	08	CO	Smuggler Mountain	Pitkin County	V		F		
623	05	IN	Wedzeb Enterprises, Inc.	Lebanon			F	S	I
624	02	PR	GE Wiring Devices	Juana Diaz	V		F		
625	05	MI	Avenue "E" Ground Water Contamin	Traverse City			S		
626	05	OH	New Lyme Landfill	New Lyme		R			
627	02	NJ	Woodland Route 72 Dump	Woodland Township	V	R	S		
628	02	PR	RCA Del Caribe	Barceloneta				D	
629	05	MN	Koch Refining Co./N-Ren Corp.	Pine Bend	V		S		

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NATIONAL PRIORITIES LIST (BY RANK)

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
			GROUP 13 (CON'T)			
630	03	PA	Brodhead Creek	Stroudsburg	R F	O
631	05	WI	Fadrowski Drum Disposal	Franklin	D	
632	10	OR	United Chrome Products, Inc.	Corvallis	R	
633	05	MI	Anderson Development Co.	Adrian	R	
634	05	MI	Shiawassee River	Howell	D	
635	03	PA	Taylor Borough Dump	Taylor Borough	R	O
636	03	DE	Halby Chemical Co.	New Castle	D	
637	03	DE	Harvey & Knott Drum, Inc.	Kirkwood	R	O
638	04	TN	Callaway Pits	Callaway	R F	O
639	05	OH	Big D Campground	Kingsville	F	
640	06	AR	Midland Products	Ola/Birta	R	
641	02	NY	Robintech, Inc./National Pipe Co.	Town of Vestal	R	
642	02	NY	BEC Trucking	Town of Vestal	D	
643	03	DE	Wildcat Landfill	Dover	R	
644	05	MI	Burrows Sanitation	Hartford	V R	O
645	03	PA	Blosenski Landfill	West Cain Township	F	
646	03	VA	Rhinehart Tire Fire Dump	Frederick County	V R F	O
647	03	DE	Delaware City PVC Plant	Delaware City	V F	
648	03	MD	Limestone Road	Cumberland	R	O
649	02	NY	Hooker (102nd Street)	Niagara Falls	V F S	
650	03	DE	New Castle Steel	New Castle County	D	
			GROUP 14			
651	06	NM	United Nuclear Corp.	Church Rock	F	
652	06	AR	Industrial Waste Control	Fort Smith	F	
653	09	CA	Celtor Chemical Works	Hoopa	R	O
654	01	MA	Haverhill Municipal Landfill	Haverhill	D	
655	04	AL	Perdido Ground Water Contam	Perdido	V	O
656	02	NY	Marathon Battery Corp.	Cold Springs	R	
657	02	NY	Colesville Municipal Landfill	Town of Colesville	D	O
658	04	FL	Yellow Water Road Dump	Baldwin	R F	O
659	05	OH	Skinner Landfill	West Chester	R	I
660	04	NC	Chemtronics, Inc.	Swannanoa	V R	O
661	05	IN	MIDCO II	Gary	R F	O
662	03	MD	Kane & Lombard Street Drums	Baltimore	R	O

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NATIONAL PRIORITIES LIST (BY RANK)

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#				CLEANUP STATUS@
			GROUP 14 (CON'T)						
663	07	MO	Shenandoah Stables	Moscow Mills		F			
664	10	WA	Silver Mountain Mine	Loomis	R				O
665	06	TX	Petro-Chemical (Turtle Bayou)	Liberty County	R				
666	05	OH	Republic Steel Corp. Quarry	Elyria				D	
667	06	LA	Bayou Bonfouca	Slidell	R	F			I
668	09	CA	Intel Corp. (Mountain View Plant)	Mountain View		F			
669	09	CA	Raytheon Corp.	Mountain View		F			I
670	05	MN	Agate Lake Scrapyard	Fairview Township	R				O
671	03	VA	Saltville Waste Disposal Ponds	Saltville	R				O
672	01	MA	Shpack Landfill	Norton/Attleboro				D	
673	03	PA	Kimberton Site	Kimberton Borough				D	O
674	01	MA	Norwood PCBs	Norwood	R				O
675	03	MD	Middletown Road Dump	Annapolis	R	F			O
676	10	WA	Pesticide Lab (Yakima)	Yakima				D	
677	05	IN	Lemon Lane Landfill	Bloomington	V	F			I
678	05	IN	Tri-State Plating	Columbus				D	
679	10	ID	Arrcom (Drexler Enterprises)	Rathdrum	R				
680	01	NH	Coakley Landfill	North Hampton	V R		S		
681	03	PA	Fischer & Porter Co.	Warminster	V	F			O
682	09	CA	Jibboom Junkyard	Sacramento	R				
683	02	NJ	A. O. Polymer	Sparta Township	R				
684	05	WI	Wausau Ground Water Contamination	Wausau	R				O
685	02	NJ	Dover Municipal Well 4	Dover Township	R				
686	02	NJ	Rockaway Township Wells	Rockaway				D	O
687	05	WI	Delavan Municipal Well #4	Delavan			S		
688	07	MO	North-U Drive Well Contamination	Springfield	R				O
689	09	CA	San Gabriel Valley (Area 3)	Alhambra	R				
690	09	CA	San Gabriel Valley (Area 4)	La Puente	R				
691	10	WA	American Lake Gardens	Tacoma	V R	F			I
692	10	WA	Greenacres Landfill	Spokane County	R				
693	10	WA	Northside Landfill	Spokane	R				O
694	06	OK	Sand Springs Petrochemical Cmplx	Sand Springs	R	F			O
695	06	TX	Pesses Chemical Co.	Fort Worth	R				O
696	05	MN	East Bethel Demolition Landfill	East Bethel Township				D	
697	06	TX	Triangle Chemical Co.	Bridge City	R				O
698	02	NJ	PJP Landfill	Jersey City	R		S		O
699	03	PA	Craig Farm Drum	Parker				D	O
700	03	PA	Voortman Farm	Upper Saucon Twp	R				

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NATIONAL PRIORITIES LIST (BY RANK)

NPL RANK	EPA RG	ST	SITE NAME *	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
			GROUP 15			
701	05	IL	Belvidere Municipal Landfill	Belvidere	R	I
702	07	MO	Bee Cee Manufacturing Co.	Malden	D	
703	03	PA	Lansdowne Radiation Site	Lansdowne	R	I

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NUMBER OF NPL SITES: 703

[FR Doc. 86-12003 Filed 6-9-86; 8:45 am]
BILLING CODE 6560-50-C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SW-FRL-2969-5]

Amendment to National Oil and Hazardous Substances Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rules.

SUMMARY: The Environmental Protection Agency ("EPA") is proposing the fifth update to the National Priorities List ("NPL"). This update contains 45 sites. The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. CERCLA requires that the NPL be revised at least annually. Today's notice proposes the fifth major revision to the NPL.

These sites are being proposed because they meet the eligibility requirements of the NPL. EPA has included on the NPL releases and threatened releases of designated hazardous substances, as well as "pollutants or contaminants" which may present an imminent and substantial danger to the public health or welfare. This notice provides the public with an opportunity to comment on placing these 45 sites on the NPL.

DATE: Comments may be submitted on or before August 11, 1986.

ADDRESSES: Comments may be mailed to Russel H. Wyer, Director, Hazardous Site Control Division (Attn: NPL Staff), Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Addresses for the Headquarters and Regional dockets are provided below. The contents of these dockets are described in Section I of the Supplementary information.

Denise Sines, Headquarters, U.S. EPA CERCLA Docket Office, Waterside Mall, Subbasement, 401 M Street, S.W., Washington DC 20460, 202/382-3046

Peg Nelson, Region 1, U.S. EPA Library, Room E121, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223-5791

Carole Petersen, Region 2, Site Investigation & Compliance Branch, 26 Federal Plaza, 7th Floor, Room 737, New York, NY 10278, 212/264-8677

Diane McCreary, Region 3, U.S. EPA Library, 5th Floor, 841 Chestnut Bldg., 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597-0580

Gayle Alston, Region 4, U.S. EPA Library, Room G-6, 345 Courtland Street, N.E., Atlanta, GA 30365, 404/347-4216

Lou Tilley, Region 5, U.S. EPA Library, 16th Floor, 230 South Dearborn Street, Chicago, IL 60604, 312/353-2022

Barry Nash, Region 6, InterFirst II Bldg., 1201 Elm Street, Dallas, TX 75270, 214/767-4075

Connie McKenzie, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/236-2828

Dolores Eddy, Region 8, U.S. EPA Library, 999 18th Street, Suite 1300, Denver, CO 80202-2413, 303/293-1444

Jean Circiello, Region 9, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Francisco, CA 94105, 415/974-8076

Joan Shafer, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop 525, Seattle, WA 98101, 206/442-4903

FOR FURTHER INFORMATION CONTACT: Trudi J. Fancher, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Phone (800) 424-9346 (or 382-3000 in the Washington, D.C., metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction.
II. Purpose of the NPL.
III. NPL Update Process and Schedule.
IV. Eligibility.
V. Contents of the Proposed Fifth NPL Update.
VI. Regulatory Impact Analysis.
VII. Regulatory Flexibility Act Analysis.

I. Introduction

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601-9657 ("CERCLA" or "the Act") and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180). EPA promulgated further revisions to the NCP on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912). These amendments to the NCP implement the responsibilities and authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)). Criteria for determining priorities are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA requires that the statutory criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable, at least 400 sites be designated individually. CERCLA requires that this National Priorities List ("NPL") be included as part of the NCP. Today, in this notice, EPA is proposing to add 45 sites to the NPL, bringing the total number of proposed sites to 185. On March 7, 1986 (51 FR 7935), EPA published a notice to delete 8 sites from the NPL, resulting in a final NPL of 533 sites. In a separate notice today, EPA is promulgating 170 sites, resulting in a final NPL of 703 sites. The total number of final and proposed NPL sites is now 888. EPA is proposing to include on the NPL sites at which there are or have been releases or threatened releases of hazardous substances, or of "pollutants or contaminants." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

This **Federal Register** notice proposing 45 sites to the NPL opens the formal 60-day public comment period. Comments may be mailed to Russel H. Wyer, Director, Hazardous Site Control Division (Attn: NPL Staff), Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The Headquarters public docket for the fifth update to the NPL will contain: Hazard Ranking System (HRS) score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the scores; and a list of document references. The Headquarters public docket is located in EPA Headquarters, Waterside Mall subbasement, 401 M Street, SW.,

Washington, D.C. 20460, and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays. Requests for copies of the documents from the Headquarters public docket should be directed to the EPA Headquarters docket office. The HRS score sheets and the Documentation Record for each site in a particular EPA Region will be available for viewing in that Regional Office when this notice is published. These Regional dockets will also contain documents referenced in the Documentation Record which contain the background data EPA relied upon in calculating or evaluating the HRS scores. Copies of these background documents may be viewed in the appropriate Regional Office, and copies may be obtained from the Region. Documents with some relevance to the scoring of each site, but which were not used as references, may also be viewed and copied by arrangement with the appropriate EPA Regional Office. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of any of these documents. Requests for HRS score sheets and Documentation Records should be directed to either Headquarters or the appropriate Regional Office docket. Requests for background documents should be directed to the appropriate Regional Superfund Branch Office.

Comments submitted to Headquarters during the 60-day public comment period may be viewed only in the Headquarters docket during the comment period. A complete set of comments pertaining to sites in a particular EPA Region will be available for viewing in the Regional Office docket approximately one week following the close of the formal comment period. Comments received after the close of the comment period will be available at Headquarters and in the appropriate Regional Office docket on an "as received" basis. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of these comments. Addresses for the Headquarters and Regional Office dockets are provided in the summary.

II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation, to assess the nature and extent of the public health and environmental risks associated with the site, and to determine what CERCLA-financed remedial action(s), if any, many be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake remedial actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. In addition, a site need not be on the NPL to be the subject of CERCLA-financed removal actions, remedial investigations/feasibility studies, or actions brought pursuant to sections 106 or 107(a)(4)(B) of CERCLA.

In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities, as discussed below. The information collected to develop HRS scores is not sufficient in itself to determine the appropriate remedy for a particular site. EPA relies on further, more detailed studies to determine what response, if any, is appropriate. These studies evaluate more fully the extent of the contamination in terms of area and severity, and the risk to affected populations and the environment. These studies also consider the cost to correct problems at the site and the response actions that have been taken by potential responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the critieria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to conduct response action at some sites on the NPL because of more pressing needs at other sites. Given the limited resources available in the Hazardous Substance Response Trust Fund established under CERCLA, the Agency must carefully balance the relative needs for response at the numerous sites it has studies. Also, it is possible that EPA will conclude after further analysis that the site does not warrant response action.

III. NPL Update Process and Schedule

Pursuant to section 105(8)(B) of CERCLA, 42 U.S.C. 9605(8)(B), EPA is required to establish, as part of the NCP, a priority list of sites. The NPL fulfills that obligation. The purpose of this notice is to propose the addition of 45 new sites to the NPL.

CERCLA requires that the NPL be revised at least once per year. Accordingly, EPA published the first NPL on September 8, 1983 (48 FR 40658), containing 406 sites. The NPL has been amended several times since then, including the addition of 170 sites which are promulgated elsewhere in today's **Federal Register** (see 49 FR 19480, May 8, 1984; 49 FR 37070, September 21, 1984; 50 FR 6320, February 14, 1985; and 50 FR 37630, September 16, 1985) (51 FR 7935). The NPL now includes 703 final sites. The Agency has periodically propose major additions to the NPL (see 49 FR 40320, October 15, 1984; 50 FR 14115, April 10, 1985; 50 FR 37950, September 18, 1985).

In addition to these periodic updates, it is sometimes desirable in rare instances to propose or promulgate separately individual sites on the NPL because of the apparent need for expedited remedial activities. This occurred in the case of the proposal of Times Beach, Missouri (48 FR 9311, March 4, 1983), the promulgation of four San Gabriel Valley, California, sites (49 FR 19480, May 8, 1984), the promulgation of two New Jersey radium sites in Glen Ridge and Montclair/West Orange (50 FR 6320, February 14, 1985), and the promulgation of the Lansdowne Radiation site, Lansdowne, Pennsylvania (50 FR 37630, September 16, 1985).

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. Those sites that score 28.50 or greater on the HRS, and which are otherwise eligible, are proposed for listing. In addition, States may designate a single site as the State top priority. In rare instances, EPA may utilize the listing provision promulgated as § 300.66(b)(4) of the NCP (50 FR 37624, September 16,1985).

Section 300.66(b)(4) of the NCP allows certain sites with HRS scores below

28.50 to be eligible for the NPL. These sites may qualify for the NPL if all of the following occur:

- The Agency for Toxic Substances and Disease Registry of the U.S. Department of Health and Human Services has issued a health advisory which recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The Lansdowne Radiation site was added to the NPL (50 FR 37630, September 16, 1985) pursuant to this section of the NCP.

As with the establishment of the initial NPL and subsequent revisions, States have the primary responsibility for selecting and scoring sites that are candidates and submitting the candidate sites to the EPA Regional Offices. For each proposed NPL update, EPA informs the States of the closing dates for submission of candidate sites to EPA. The EPA Regional Offices then conduct a quality control review of the States' candidates sites. After conducting this review, the EPA Regional Offices submit candidate sites to EPA Headquarters. The Regions may include candidate sites in addition to those submitted by States. In reviewing these submissions, EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring.

This **Federal Register** notice lists sites that EPA is proposing to add to the NPL. These proposed additions of 43 non-Federal sites and 2 Federal sites, are listed in Tables 1 and 2 immediately following this Preamble.

Public Comment Period

EPA requests public comment on these proposed additions. Comments will be accepted for 60 days following publication of this notice in the **Federal Register**. EPA is also soliciting comments on two Federal facilities that have HRS scores 28.50 or higher, and which are now eligible for the NPL pursuant to the NCP amendments of November 20, 1985 (50 FR 47912). Section IV of this Preamble includes a discussion of EPA's Federal facilities policy.

The "**ADDRESSES**" portion of this notice contains information on where to obtain documents relating to the scoring of the 45 proposed sites. After considering the relevant comments received during the comment period, EPA will add to the NPL all proposed sites that meet EPA's criteria for listing. In past NPL rulemakings, EPA has considered comments received after the close of the comment period. Because the Agency has now increased the frequency of NPL rulemakings, EPA may no longer have the opportunity to consider late comments.

IV. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases and expressly excludes some substances from the definition of release. In addition, as a matter of policy, EPA may choose not to use CERCLA to respond to certain types of releases because other authorities can be used to achieve cleanup of these releases. Preambles to previous NPL rulemakings have discussed examples of these policies. See, e.g., 48 FR 40658 (September 8, 1983); 49 FR 37070 (September 21, 1984); and 49 FR 40320 (October 15, 1984). Generally, this proposed update continues these past eligibility policies. The policy regarding Federal facilities is relevant to this update, and is discussed below.

Federal Facility Releases

CERCLA section 111(e)(3) prohibits use of the Trust Fund for remedial actions at Federally-owned facilities, and until the November 20, 1985, amendments to the NCP (50 FR 47912), § 300.66(e)(2) of the NCP prevented the placing of Federal facilities on the NPL. Section 300.66(e)(2) of the NCP has now been deleted, removing the prohibition of listing Federal facilities on the NPL.

Prior to proposal of NPL Update #2 (49 FR 40320, October 15, 1984), EPA did not propose for listing any site on the NPL where the release resulted solely from a Federal facility regardless of whether contamination remained on-site or migrated off-site. However, based on public comments received from previous NPL announcements, EPA proposed 36 Federal facilities for NPL Update #2. EPA did not plan to promulgate the 36 Federal facilities unless the NCP was revised to permit the placing of Federal facilities on the NPL.

In Updates #3 (50 FR 14115, April 10, 1985), and #4 (50 FR 37950, September 18, 1985), the Agency did not include any additional Federal facilities in the proposed rule because the NCP amendments had not been promulgated. However, six Update #3 Federal facilities and three Update #4 Federal facilities which met the criteria for proposal were named in the preambles of those updates. For #5, the Agency is proposing two Federal facilities listed in Table 2 and requests comments on the scoring of these sites. The Agency intends to promulgate Federal facilities which have been proposed or identified in the preambles of previous updates in future NPL rulemakings.

Individual Site Issues

Silver Bow Creek/Butte Area Site—Butte, Montana. The Agency believes that the existing Silver Bow Creek NPL site in Butte, Montana, and the Butte Area should be considered as one site. In order to assess the appropriateness of this decision, the Agency solicits comments on the expansion of the Silver Bow Creek site, and will evaluate comments received before proceeding with any Fund-financed remedial actions in the Butte Area.

At the time of listing on the NPL (48 FR 40658, September 8, 1983), the Silver Bow Creek site was characterized as approximately 28 stream miles. Preliminary evaluation of data from the remedial investigation/feasibility study (RI/FS) indicates that sources upstream of the existing Silver Bow Creek site are contributing to contamination in the creek. EPA considered two options for dealing with the upstream problems—proposing a separate Butte Area Site or expanding the existing Silver Bow Creek site. The Butte Area was scored separately; however, the Agency believes it is more appropriate to expand the Silver Bow Creek site to include the Butte Area.

A thorough analysis of the relationship between the Silver Bow Creek site and the Butte Area led EPA to conclude that the geographical relationship of the headwaters of Silver Bow Creek (which originate a short distance upstream of the Silver Bow Creek drainage area) and the portion of the Silver Bow Creek downstream of the City of Butte favors treating these areas as one site under CERCLA. In addition, EPA decided to analyze the nature and extent of contamination under one comprehensive RI/FS because it appears that contamination from both areas threatens the same surface water body and the same target population. The geographic relationship of the two areas suggests that the Butte Area is a major source of contamination to the Silver Bow Creek, which is the major receiving water body for mining discharges and drainage from the Butte Area. EPA treats sources of and extent of contamination at other sites in this way and concluded that it was logical to evaluate the Butte Area and the Silver Bow Creek site together. Adding the Butte Area does not greatly expand the site geographically. Documents supporting the technical justification for

expanding the Silver Bow Creek NPL site to include the Butte Area are available in the public docket.

Butler Mine Tunnel—Pittston, Pennsylvania. The Butler Mine Tunnel, situated in a populated area of Pittstown, Pennsylvania, is a mine discharge tunnel designed to drain acid mine waste into the Susquehanna River. The tunnel is honeycombed with boreholes and shafts. In addition to mine drainage, the disposal of hazardous materials into the tunnel is also suspected.

In July 1979, EPA initiated an emergency response action at the site under section 311 of the Clean Water Act because of a release of oily material from the tunnel into the river. Response actions ended in January 1981. In 1980, the State began monitoring the outfall of the tunnel via an automated detection system. The State continued to monitor the outfall until 1984, during which time there was no evidence of any discharge from the tunnel.

On October 23, 1981, the Agency announced the Interim Priorities List (IPL), which included the Butler Mine Tunnel site. The IPL was a preliminary list of 115 sites developed by the Agency prior to the proposal of the first NPL. In February 1982, the State of Pennsylvania indicated that no further response actions were warranted at the Butler Mine Tunnel site based on monitoring results of existing conditions. On December 30, 1982, the first NPL was proposed in the Federal Register (47 FR 58476). Butler Mine Tunnel was not included on the list, but the preamble stated that all appropriate Fund-financed cleanup had been completed.

Following heavy rains associated with Hurricane Gloria, oily material was observed discharging from the Butler Mine Tunnel outfall into the Susquehanna River on September 27, 1985. On September 28, 1985, EPA again initiated an emergency response action, including measures to sample and contain the oily material. However, remedial actions may be needed in the future to provide a long-term resolution of problems at Butler Mine Tunnel.

Consequently, EPA believes that it would be appropriate to propose the Butler Mine Tunnel for the NPL at this time in order to provide the Agency with the response capabilities provided under the remedial action authorities of CERCLA.

V. Contents of the Proposed Fifth NPL Update

All sites in today's proposed addition to the NPL received HRS scores of 28.50 or above.

Following this preamble is a list of the 45 sites proposed for addition to the NPL (Tables 1 and 2). Each entry on the list contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. Each proposed site is placed by score in a group corresponding to the groups of 50 sites presented within the final NPL. For example, sites in group 5 of the proposed update have scores that fall within the range of scores covered by the fifth group of 50 sites on the final NPL. Each entry is accompanied by one or more notations referencing the status of response and cleanup activities at the site at the time this list was prepared.

EPA categorizes NPL sites based on the type of response at each site (Fund-financed, Federal enforcement, State enforcement, and/or voluntary action). In addition, EPA is including the cleanup status codes to identify sites where significant response activities are underway or completed. The codes are included in response to public requests for information regarding actual site cleanup activities, and to acknowledge situations where EPA, States, or responsible parties have undertaken response actions. The response categories/status codes for these proposed sites and all final NPL sites will be updated each time EPA promulgates additional sites on the NPL.

Response Categories

The following response categories are used to designate the type of response underway. One or more categories may apply to each site.

Federal and/or State Response (R). This category includes sites at which EPA or State agencies have started or completed response actions. These include removal actions, nonenforcement remedial planning, and/or remedial actions under CERCLA (NCP, § 300.66(f)–(i) 47 FR 31217, July 16, 1982). For purposes of assigning a category, the response action commences when EPA obligates funds.

Federal Enforcement (F). This category includes sites where the United States has filed a civil complaint (including cost recovery actions) or issued an administrative order under CERCLA or RCRA. It also includes sites where a Federal court has mandated some form of response action following a judicial proceeding. All sites at which EPA has obligated funds for enforcement-lead remedial investigations and feasibility studies are also included in this category.

A number of sites on the NPL are the subject of legal investigations or have been formally referred to the Department of Justice for possible enforcement action. EPA's policy is not to release information concerning a possible enforcement action until a lawsuit has been filed. Accordingly, sites subject to pending Federal action are not included in this category, but are included under "Category To Be Determined."

State Enforcement (S). This category includes sites where a State has filed a civil complaint or issued an administrative order. It also includes sites at which a State court has mandated some form of response action following a judicial proceeding. Sites where a State has obligated funds for enforcement-lead remedial investigations and feasibility studies are also included in this category.

It is assumed that State policy precludes the release of information concerning possible enforcement actions until such action has been formally taken. Accordingly, sites subject to possible State legal action are not included in this category, but are included under "Category To Be Determined."

Voluntary or Negotiated Response (V). This category includes sites where private parties are conducting response actions pursuant to settlement agreements, consent decrees, or consent orders to which EPA or the State is a party. Usually, the response actions result from a Federal or State enforcement action. This category includes privately-financed remedial planning, removal actions, and/or remedial actions.

Category To Be Determined (D). This category includes all sites not listed in any other category. A wide range of activities may be in progress at sites in this category. EPA or a State may be evaluating the type of response action to undertake, or a response action may be determined but funds not yet obligated. Sites where a Federal or State enforcement case may be under authorities other than CERCLA or RCRA are also included in this category. Additionally included in this category are sites where responsible parties may be undertaking cleanup actions that are not covered by a consent decree, consent order, or administrative order.

Cleanup Status Codes

EPA assigns codes to indicate the status of Fund-financed or private party cleanup activities underway or completed at proposed and final NPL sites. Fund-financed response activities which are coded include: significant removal actions, source control remedial actions, and off-site remedial actions. The status of cleanup activities

conducted by responsible parties under a consent decree, court order, or an administrative order also is coded, as are similar cleanup activities taken independently of EPA and/or the State. Remedial planning activities or engineering studies do not receive a cleanup status code.

Many sites on the NPL are cleaned up in stages or "operable units." For purposes of cleanup status coding, an operable unit is a discrete action taken as part of the entire site cleanup that significantly decreases or eliminates a release, threat of release, or pathway of exposure. One or more operable units may be necessary to complete the cleanup of a hazardous waste site. Operable units may include significant removal actions taken to stabilize deteriorating site conditions or provide alternative water supplies, and remedial actions. A simple removal action (constructing fences or berms or lowering free-board) that does not eliminate a significant release, threat of release, or pathway of exposure is not considered an operable unit for purposes of cleanup status coding.

The following cleanup status codes (and definitions) are used to designate the status of cleanup activities at proposed and final sites on the NPL. Only one code is used to denote the status of actual cleanup activity at each site since the codes are mutually exclusive.

Implementation activities are underway for one or more operable units (I). Field work is in progress at the site for implementation of one or more removal or remedial operable units, but no operable units are completed.

Implementation activities are completed for one or more (but not all) operable units. Implementation activities may be underway for additional operable units (O). Field work has been completed for one or more operative units, but additional site cleanup actions are necessary.

Implementation activities are completed for all operable units (C). All actions agreed upon for remedial action at the site have been completed, and performance monitoring has commenced. Further site activities could occur if EPA considers such activities necessary.

VI. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below.

Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites. EPA believes that the kinds of economic effects associated with this revision are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when the amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to proposing the addition of 45 sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis.

Costs

EPA has determined that this proposed rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish the EPA will necessarily undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites included in a proposed rulemaking. This action was submitted to the Office of Management and Budget (OMB) for review.

The major events that follow the proposed listing of a site on the NPL are a responsible party search and a remedial investigation/feasibility study (RI/FS) which determines whether remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the RI/FS, design and construction, and O&M, or the costs may be shared by EPA and the States on a 90%:10% basis (50%:50% in the case of State or locally owned sites). Additionally, States assume all costs for O&M activities after the first year at sites involving Fund-financed remedial actions.

Rough estimates of the average per-site and total costs associated with each of the above activities are presented below. At this time, EPA is unable to predict what portions of the total costs will be borne by responsible parties, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost recovery actions.

	Average total cost per site [1]
Cost category:	
RI/FS	$800,000
Remedial design	440,000
Remedial action	[2] 7,200,000
Net present value of O&M [3]	[2] 3,770,000

[1] 1985 U.S. dollars.
[2] Includes State cost share.
[3] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate.

Source: "Extent of the Hazardous Release Problem and Future Funding Needs-CERCLA Section 301(a)(1)(c) Study", December 1984, Office of Solid Waste and Emergency Response, U.S. EPA.

Costs to States associated with today's proposed amendment arise from the required State cost-share of: (1) 10 percent of remedial action and 10 percent of first year O&M costs at privately-owned sites; and (2) at least 50 percent of the remedial planning (RI/FS and remedial design), remedial action and first year O&M costs at State or locally owned sites. States will assume all the cost for O&M after the first year. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90 percent of the 43 non-Federal sites proposed to be added to the NPL in this amendment will be privately-owned and 10 percent will be State- or locally-owned. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial actions at all 43 non-Federal sites would be $194 million, of which $147 million is attributable to the State O&M cost.

Listing a hazardous waste site on the final NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of response costs, but the Agency considers: the volume and nature of the wastes at the site, the parties' ability to pay, and other factors when deciding whether and how to proceed against potentially responsible parties.

Economy-wide effects of this proposed amendment are aggregations

of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The benefits associated with today's proposed amendment to list additional sites are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, this proposed expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement actions.

As a result of the additional NPL remedies, there will be lower human exposure to high-risk chemicals, and higher quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate in advance of completing the RI/FS at these particular sites.

Associated with the costs of remedial actions are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly (through purchased materials).

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities the Act refers to small businesses, small governmental jurisdictions, and nonprofit organizations.

While proposed modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The proposed listing of sites on the NPL does not in itself require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's proposed inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected businesses at this time nor estimate the number of small businesses that might be affected.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the proposed listing of these 45 sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would only occur through enforcement and cost recovery actions, which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also the firm's ability to pay. The impacts from cost recovery on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Part 300—[Amended]

It is proposed to amend 40 CFR Part 300 as follows:

1. The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9605(8)(B)/CERCLA 105(8)(B).

2. It is proposed to add the following sites to Appendix B of Part 300.

Dated: May 19, 1986.

Jack W. McGraw,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

BILLING CODE 6560-50-M

NATIONAL PRIORITIES LIST PROPOSED UPDATE 5 SITES

NPL RANK	EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
			GROUP 4			
09		AZ	Apache Powder Co.	Benson	D	
03		PA	Butler Mine Tunnel	Pittston	R	O
05		MI	American Anodco, Inc.	Ionia	D	
			GROUP 5			
05		WI	Tomah Municipal Sanitary Landfill	Tomah	D	
			GROUP 6			
10		WA	Hidden Valley Lf (Thun Field)	Pierce County	D	
09		AZ	Hassayampa Landfill	Hassayampa	D	
05		IL	Tri-County LF/Waste Mgmt Illinois	South Elgin	D	
			GROUP 7			
05		IN	Douglass Road/Uniroyal, Inc., LF	Mishawaka	D	
04		SC	Rochester Property	Travelers Rest	D	
03		PA	Delta Quarries/Stotler Landfill	Antis/Logan Twps	D	
01		CT	Revere Textile Prints Corp.	Sterling	D	
03		VA	Atlantic Wood Industries, Inc.	Portsmouth	D	
			GROUP 8			
05		WI	Algoma Municipal Landfill	Algoma	D	
04		FL	Sydney Mine Sludge Ponds	Brandon	D	O

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
F = FEDERAL ENFORCEMENT; S = STATE ENFORCEMENT;
D = ACTIONS TO BE DETERMINED.

@: I = IMPLEMENTATION ACTIVITY UNDERWAY, ONE OR MORE OPERABLE UNITS;
O = ONE OR MORE OPERABLE UNITS COMPLETED, OTHERS MAY BE UNDERWAY;
C = IMPLEMENTATION ACTIVITY COMPLETED FOR ALL OPERABLE UNITS.

NATIONAL PRIORITIES LIST PROPOSED UPDATE 5 SITES

NPL RANK	EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#		CLEANUP STATUS@
			GROUP 9				
	05	OH	TRW, Inc. (Minerva Plant)	Minerva	V	S	I
	03	PA	Bally Ground Water Contamination	Bally Borough		D	
	05	MN	LaGrand Sanitary Landfill	LaGrand Township		S	
	05	MI	J & L Landfill	Rochester Hills		D	
	04	KY	Howe Valley Landfill	Howe Valley		D	
			GROUP 10				
	02	NY	BioClinical Laboratories, Inc.	Bohemia		D	
	05	IN	Southside Sanitary Landfill	Indianapolis	V	S	
			GROUP 11				
	02	NY	Richardson Hill Road Lndfll/Pond	Sidney Center		D	
	08	UT	Midvale Slag	Midvale		D	
	09	CA	Waste Disposal, Inc.	Santa Fe Springs		D	
	07	IA	Red Oak City Landfill	Red Oak		D	
	04	NC	Cape Fear Wood Preserving	Fayetteville	R		O
	02	NY	Conklin Dumps	Conklin		D	
	06	LA	Combustion, Inc.	Denham Springs		S	
	02	NY	Genzale Plating Co.	Franklin Square		D	
			GROUP 12				
	02	NY	Malta Rocket Fuel Area	Malta		D	
	09	AZ	Mesa Area Ground Water Contamin	Mesa		D	
	05	MI	Folkertsma Refuse	Grand Rapids		D	
	08	MT	Montana Pole and Treating	Butte	R		I

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NATIONAL PRIORITIES LIST PROPOSED UPDATE 5 SITES

NPL RANK	EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#		CLEANUP STATUS@
			GROUP 13				
	03	PA	Hebelka Auto Salvage Yard	Weisenberg Township		D	
	02	NY	Rowe Industries Ground Water Cont	Noyack/Sag Harbor	R		O
	04	SC	Medley Farm Drum Dump	Gaffney	R		O
	04	FL	Piper Aircraft/Vero Beach Wtr&Swr	Vero Beach		D	O
	03	PA	Eastern Diversified Metals	Hometown	V	S	
	05	WI	Hunts Disposal Landfill	Caledonia		D	
	06	TX	Sheridan Disposal Services	Hempstead		D	
			GROUP 14				
	03	DE	Tyler Refrigeration Pit	Smyrna		D	
	10	WA	Old Inland Pit	Spokane		D	
			GROUP 15				
	03	PA	CryoChem, Inc.	Worman		D	

NUMBER OF SITES PROPOSED FOR LISTING: 43

NATIONAL PRIORITIES LIST PROPOSED FEDERAL UPDATE 5 SITES

NPL RANK	EPA RG	ST	SITE NAME	CITY/COUNTY	RESPONSE CATEGORY#	CLEANUP STATUS@
			GROUP 2			
03		PA	Naval Air Develop Center(8 Areas)	Warminster Township	R	
			GROUP 12			
10		WA	Nav Undersea Warf Stat (4 Areas)	Keyport	R	

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NUMBER OF SITES PROPOSED FOR LISTING: 2

[FR Doc. 86-12004 Filed 6-9-86; 8:45 am]
BILLING CODE 6560-50-C

40 CFR Part 300

[SW-FRL-3023-2]

Amendment to National Oil and Hazardous Substances Contingency Plan: National Priorities List; Reopening of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; Reopening of comment period.

SUMMARY: The Environmental Protection Agency ("EPA") has proposed to amend the National Oil and Hazardous Substances Contingency Plan ("NCP"), which was promulgated on July 16, 1982, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316.

CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and that the list be revised at least annually. The NPL constitutes this list and meets those requirements.

This reproposal reopens the public comment period for the five sites that were proposed for National Priorities List on October 15, 1984 (49 FR 40320). In addition, this notice also solicits comments on proposed components of the NPL eligibility policy regarding RCRA-related sites. The majority of this policy is promulgated today in a separate notice.

DATES: Comments may be submitted on or before August 11, 1986.

ADDRESSES: Comments may be mailed to Russel H. Wyer, Director, Hazardous Site Control Division (Attn: NPL Staff), Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Addresses for the Headquarters and Regional dockets are provided below. The contents of these dockets are described in Section I of the Supplementary Information.

Denise Sines, Headquarters, U.S. EPA CERCLA Docket Office, Waterside Mall, Subbasement, 401 M Street, S.W., Washington, DC 20460, 202/382-3046

Peg Nelson, Region 1, U.S. EPA Library, Room E121, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223-5791

Carole Petersen, Region 2, Site Investigation & Compliance Branch, 26 Federal Plaza, 7th Floor, Room 737, New York, NY 10278, 212/264-8677

Diane McCreary, Region 3, U.S. EPA Library, 5th Floor, 841 Chestnut Bldg., 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597-0580

Gayle Alson, Region 4, U.S. EPA Library, Room G-6, 345 Courtland Street, N.E., Atlanta, GA 30365, 404/347-4216

Lou Tilley, Region 5, U.S. EPA Library, 16th Floor, 230 South Dearborn Street, Chicago, IL 60604, 312/353-2022

Barry Nash, Region 6, InterFirst II Bldg., 1201 Elm Street, Dallas, TX 75270, 214/767-4075

Connie McKenzie, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/236-2828

Dolores Eddy, Region 8, U.S. EPA Library, 999 18th Street, Suite 1300, Denver, CO 80202-2413, 303/293-1444

Jean Circiello, Region 9, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Franciso, CA 94105, 415/974-8076

Joan Shafer, Region 10, U.S. EPA 11th Floor, 1200 6th Avenue, Mail Stop 525, Seattle, WA 98101, 206/442-4903

FOR FURTHER INFORMATION CONTACT: Jane Metcalfe, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548E), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, Phone (800) 424-9346 (or 382-3000 in the Washington, DC, metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction.
II. Purpose of the NPL.
III. Contents of this Proposed Update.

I. Introduction

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. sections 9601-9657 ("CERCLA or the Act"), and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180). EPA promulgated further revisions to the NCP on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912). These amendments to the NCP implemented responsibilities and authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, and contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to releases or threats of releases on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)).

Section 105(8)(B) of CERCLA requires that these criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable, at least 400 sites be designated individually on the National Priorities List (NPL). Section 105(8)(B) also requires that the list of priorities be revised at least annually. EPA has included on the NPL releases and threatened releases of designated hazardous substances as well as "pollutants or contaminants" which may present an imminent and substantial danger to the public health or welfare. CERCLA requires that the NPL be included as part of the NCP. An initial NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has been amended several times since then. The five sites being reproposed today were originally proposed on October 15, 1984 (49 FR 40320). Additional discussion on the purpose and development of the NPL and on generic issues relating to the HRS is included in the preambles to other NPL Rules which are cited elsewhere in today's **Federal Register** in two separate NPL rulemakings.

Section 300.68(a) of the NCP restricts Fund-financed remedial action to sites on the NPL. Inclusion of a site on the NPL is not necessary for other types of response actions such as removal actions or enforcement actions. Moreover, a site need not be on the NPL to be the subject of a private party cost recovery action pursuant to section 107(a)(4)(B) of CERCLA.

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. Those sites that score 28.50 or greater on the HRS are eligible for listing. In addition, States may designate a single site as the State top priority. In rare instances, EPA may also add sites to the NPL pursuant to § 300.66(b)(4) of the NCP (50 FR 37624, September 16, 1985).

Section 300.66(b)(4) of the NCP allows certain sites with HRS scores below 28.50 to be eligible for the NPL. These sties may qualify for the NPL if all of the following occur:

• The Agency for Toxic Substances and Disease Registry of the U.S. Department of Health and Human Services has issued a health advisory which recommends dissociation of individuals from the release.

• EPA determines that the release poses a significant threat to public health.

• EPA anticipates that is will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

All five sites being reproposed today scored 28.50 or greater.

The publication of this **Federal Register** notice opens the formal 60-day comment period. Comments may be mailed to Russel H. Wyer, Director, Hazardous Sites Control Division (Attn: NPL Staff), Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The Headquarters public docket for these sites will contain: Hazard Ranking System (HRS) score sheets for each of the reproposed sites; a Documentation Record for each site describing the information used to compute the scores; and a list of document references. In addition, comments regarding the five sites which the Agency received during the initial comment period are available in the Headquarters and Regional dockets. The Headquarters public docket is located in EPA Headquarters, Waterside Mall subbasement, 401 M Street, S.W., Washington, D.C. 20460, and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays. Requests for copies of the documents from the Headquarters public docket should be directed to the EPA Headquarters docket office. The HRS score sheets and the Documentation Record for each site in a particular EPA Region will be available for viewing in that Regional Office when this notice is published. The Regional dockets will also contain documents referenced in the Documentation Record which contain the background data EPA relied upon in calculating or evaluating the HRS scores. Copies of these background documents may be viewed in the appropriate Regional Office, and copies may be obtained from the Region. Documents with some relevance to the scoring of each site, but which were not used as references, may also be viewed and copied by arrangement with the appropriate EPA Regional Office. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of any of these documents. Requests for HRS score sheets and Documentation Records should be directed to either Headquarters or the appropriate Regional Office docket. Requests for background documents should be directed to the appropriate Regional Superfund Branch Office.

Comments submitted to Headquarters during the 60-day public comment period may be viewed only in the Headquarters docket during the comment period. A complete set of comments pertaining to these five sites and the RCRA policy will be available for viewing in the Regional Office dockets approximately one week following the close of the formal comment period. Comments received after the close of the comment period will be available at Headquarters and in the appropriate Regional Office docket on an "as received" basis. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of comments. Addresses for the Headquarters and Regional Office dockets are provided in the summary.

II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d Sess. 60 (1980)):

> The priority lists serves primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation, to assess the nature and extent of the public health and environmental risks associated with the site, and to determine what CERCLA-finance remedial action(s), if any, may be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake remedial actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. In addition, a site need not be on the NPL to be the subject of CERCLA-financed removal actions, remedial investigations/feasibility studies, or actions brought pursuant to sections 106 or 107(a)(4)(B) of CERCLA.

In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities, as discussed below. The information collected to develop HRS scores is not sufficient in itself to determine the appropriate remedy for a particular site. EPA relies on further, more detailed studies to determine what response, if any, is appropriate. These studies evaluate more fully the extent of the contamination in terms of area and severity, and the risk to affected populations and the environment. These studies also consider the cost to correct problems at the site and the response actions that have been taken by potential responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to conduct response action at some sites on the NPL because of more pressing needs at other sites. Given the limited resources available in the Hazardous Substances Response Trust Fund established under CERCLA, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. Also, it is possible that EPA will conclude after further analysis that the site does not warrant response action.

III. Contents of This Proposed Update

A. Reopening of Comment Period

EPA solicits additional comments on the five sites listed below:

EPA region and state	Site name	City/County
09—CA	Firestone Tire & Rubber Co (Salinas Plant)	Salinas
05—IL	Kerr-McGee (Kress Creek/West Branch of Du Page River)	Du Page County
05—IL	Kerr-McGee (Reed-Keppler Park)	West Chicago
05—IL	Kerr-McGee (Residential Areas)	West Chicago/Du Page County
05—IL	Kerr-McGee (Sewage Treatment Plant)	West Chicago

The four Kerr-McGee sites were proposed on October 15, 1984 (49 FR

40320). During EPA's review of the public comments received for the four Kerr-McGee sites, EPA realized that materials in the docket and which were relied upon for scoring these sites, were not made available to a commenter. Accordingly, EPA is extending the comment period with respect to these four sites in order to provide interested parties with the opportunity to examine the complete docket and comment on these sites. The comment period will extend for 60 days following the publication of this notice. The HRS scoring sheets, documentation records, and comments previously submitted for these sites are in the EPA Headquarters docket. In addition, the HRS scoring sheets, documentation records, background documents, and comments previously submitted for these sites are available in the Region 5 docket (see **ADDRESSES**).

The Firestone Tire & Rubber Co. Plant in Salinas, California, was proposed on October 15, 1984 (49 FR 40320). In responding to public comments received, EPA has gathered additional data related to the HRS score for this site and has entirely rescored the site. The Agency believes that it is appropriate to provide a public comment period on the rescoring of this site for 60 days after publication of this notice. Interested parties may inspect the HRS scoring sheets, documentation records, and comments previously submitted for this site in the EPA Headquarters docket. In addition, the HRS score sheets, documentation records, background documents, and comments previously submitted for this site are available in the Region 9 docket (see **ADDRESSES**).

B. Releases From Resource Conservation and Recovery Act (RCRA) Sites

This notice also includes the proposed components of the NPL eligibility policy for RCRA-related sites. This policy appears in its entirety elsewhere in today's **Federal Register**. This notice solicits comments on the proposed components of the RCRA listing policy which are described in this section.

Background

Since the first NPL final rule (48 FR 40658, September 8, 1983), it has been the Agency's policy to defer placing sites on the NPL that can be addressed by RCRA Subtitle C corrective action authorities. Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), only releases to ground water from surface impoundments, waste piles, land treatment areas, and landfills that received RCRA hazardous wastes after July 26, 1982, and did not certify closure prior to January 26, 1983 (the effective date of the RCRA regulations for permitting land disposal facilities) were subject to corrective action requirements under Subtitle C. Therefore, these units were not eligible for listing unless they were abandoned, lacked sufficient resources or RCRA corrective action requirements could not be enforced.

The enactment of HSWA greatly expanded RCRA Subtitle C corrective action authorities. For example, under section 3004(u), hazardous waste treatment, storage, and disposal facilities seeking RCRA permits must address all releases of hazardous constituents to any medium from solid waste management units, whether active or inactive. HSWA also provided new authority in section 3004(v) to address releases that have migrated beyond the facility boundary if the permission of the owner of the affected property can be obtained. In addition, section 3008(h) authorizes EPA to compel corrective action or any response necessary to protect human health or the environment when there is or has been a release of hazardous waste at a RCRA interim status facility.

In light of the new authorities, the Agency proposed in the preamble to the April 10, 1985, proposed rule (50 FR 14118), a revised policy for listing of RCRA-related sites on the NPL. Under the proposed policy, listing on the NPL of RCRA-related sites would be deferred until the Agency determined that RCRA corrective measures were not likely to succeed due to factors such as: (1) The inability or unwillingness of the owner/operator to pay for such activities; (2) the inadequacies of the financial responsibility guarantees to pay for such costs; and (3) EPA or State priorities for addressing the sites under RCRA. In addition, the Agency indicated that it intended to apply the RCRA sites listing policy to RCRA sites that were currently proposed or promulgated on the NPL and, in appropriate cases, delete sites from the NPL.

The Agency has evaluated the comments received on the proposed RCRA listing policy. Today, EPA is deciding and implementing major components of the final RCRA sites policy described elsewhere in today's **Federal Register**. In this notice, the Agency is proposing and requesting comments on additional components of the policy. A discussion of the proposed components of the policy follows.

Components of Proposed RCRA Policy

In addition to the circumstances identified in the final portion of the RCRA listing policy, described elsewhere in today's **Federal Register**, there are other situations for which the exercise of RCRA authorities may not result in expeditious or adequate remedial action and, therefore, NPL eligibility should also be considered. For example, even though an owner/operator is not bankrupt or has not lost authorization to operate, he may have failed to comply sufficiently with a permit condition or an order issued pursuant to RCRA authorities or may not have adequately closed a facility in accordance with an approved closure plan. The Agency is considering providing more specificity to the third component of today's final policy (described elsewhere in today's **Federal Register**), by proposing that sites falling into the categories below would be eligible for the NPL.

1. *Facilities whose owners or operators have not complied adequately with an administrative order, judicial action, or a RCRA permit condition requiring response or corrective action.* As a general matter, the Agency would prefer to use RCRA permit or enforcement authorities to secure corrective actions at RCRA sites. When a facility owner fails to adequately carry out corrective action activities, there is little assurance that releases will be addressed in an appropriate manner. Such facilities should be eligible for listing in order to make CERCLA authorities available expeditiously. Although the Agency has not previously taken into account compliance with corrective action requirements in a permit or a Federal enforcement action when considering a site for listing, Congress deliberately expanded the scope of the RCRA corrective action authorities. Accordingly, it is appropriate for the Agency to rely on these authorities. When an owner/operator fails to comply adequately with a RCRA corrective action requirement, however, it means that CERCLA remedial action may be needed to protect human health and the environment. By making these facilities eligible for listing, the Agency provides that appropriate CERCLA-financed remedial action can occur expeditiously.

2. *Facilities whose owners or operators have not submitted or implemented an adequate closure plan.* Adequate closure of a RCRA facility is integrally related to prevention of future releases and often involves measures similar to those undertaken during

corrective action, such as waste removal, excavation of contaminated soil, and capping. Similarly, where an owner or operator is unwilling to carry out such activities there is a need to ensure that CERCLA will be available.

If the Agency decides to incorporate into the final RCRA listing policy a component that allows listing of sites in the two categories described above, an important issue will be how the Agency establishes that there has not been adequate compliance with RCRA requirements relating to corrective action or closure. If non-compliance is established through a determination by an administrative law judge or a court, there may be delays in employing CERCLA to respond to problems at these sites. It may be more appropriate, therefore, for the Agency to base its decision to list sites on the NPL under this criterion based upon the issuance of an administrative order or initiation of a judicial action to enforce corrective action requirements imposed by permit or order or in a closure plan. The Agency specifically solicits comments on how and when it should determine that the likelihood of compliance with RCRA requirements is low enough that a RCRA site should be eligible for the NPL.

The components of the Agency's final policy with respect to sites that may be subject to RCRA corrective action are designed to ensure that RCRA authorities are employed in the first instance except where there are indications that an owner or operator is unwilling or unable to perform corrective action. The Agency has identified three categories of sites for which there are indications of unwillingness or inability to carry out corrective action and has announced that facilities in those categories will be eligible for the NPL. EPA may not have identified all types of sites for which the exercise of RCRA authorities may not result in timely and appropriate remedial action and invites commenters to suggest other categories of RCRA sites that should be considered eligible for the NPL. For example, additional categories that may merit inclusion are RCRA facilities whose owners or operators did not notify the appropriate authority that they treat, store, or dispose of RCRA Subtitle C hazardous waste or did not submit the required permit applications or who have otherwise indicated an unwillingness to undertake corrective action.

The Agency will consider supplementing the RCRA listing policy announced elsewhere in today's **Federal Register** if comments or the Agency's experience with the new policy demonstrate that additional categories of RCRA-related sites should be placed on the NPL to ensure appropriate and expeditious remedial action.

Application of the Final RCRA Policy to Currently Proposed Sites

Elsewhere in today's **Federal Register**, EPA has described the final components of the RCRA policy. Application of this final portion of the policy has resulted in the promulgation of six RCRA sites. These six sites fall within the scope of the final policy defining NPL-eligible RCRA sites. Four of the six sites are bankrupt and two sites, proposed prior to HSWA, meet the third criterion of the final RCRA policy.

The remainder of the RCRA sites proposed in October 1984 will remain in proposed status until the Agency evaluates their RCRA status in order to determine whether they are eligible for the NPL based on this new policy. EPA invites the owner/operators of these facilities and any other persons to provide any information that would assist EPA in evaluating: (1) The facility's status under RCRA and (2) the relationship this information has to the final and proposed elements of the new RCRA policy discussed here and elsewhere in today's **Federal Register**. This information should be submitted to EPA Headquarters within 60 days of publication of this rule.

Application of Policy to Final NPL Sites

The Agency plans to review the status of and apply this policy to RCRA sites that are already listed on the final NPL. NPL sites that are not subject to Subtitle C corrective action requirements or RCRA facilities that are eligible for the NPL based on the final or proposed policy announced today will continue to be listed on the NPL. The remaining sites will be deleted. The Agency invites the owners or operators of facilities on the proposed or final NPL to provide information that would assist EPA in evaluating: (1) The facility's status under RCRA and (2) the relationship this information has to the final and proposed elements of the new RCRA policy. This information should be submitted to Headquarters within 60 days after publication of this rule.

Federal Sites

Application of this policy with respect to Federal facilities will be addressed at a later date. The Agency is working to resolve a number of issues associated with Federal facilities and will coordinate application of this policy with those efforts.

Since the Agency expects to adopt its final policy on the listing of RCRA sites on the NPL before the end of the year, comments concerning the issues described herein should be submitted to Russel H. Wyer, Director, Hazardous Site Control Division (Attn: NPL Staff), U.S. Environmental Protection Agency, 401 M Street SW. (WH-548E), Washington, DC 20460, no later than August 11, 1986.

Dated: May 19, 1986.

Jack W. McGraw,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86-12005 Filed 6-9-86; 8:45 am]

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federal register

Tuesday
June 10, 1986

Part III

Department of Justice

Bureau of Prisons

28 CFR Part 544

Inmate Control, Custody, Care, Treatment, and Instruction; Adult Basic Education Program; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 544

Control, Custody, Care, Treatment, and Instruction of Inmates; Adult Basic Education Program

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is publishing final amendments to its rule on adult basic education (ABE). The amended rule requires an inmate who cannot read, write, or do mathematics at the eighth grade level (the existing rule is the sixth grade level) to attend an ABE program for a minimum of 90 calendar days. The amended rule exempts from the 8.0 minimum academic grade level requirement an inmate who, during the inmate's present confinement, has completed an ABE program at the 6.0 academic level.

EFFECTIVE DATE: July 1, 1986.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 770, 320 1st Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Hank Jacob, Office of General Counsel, Bureau of Prisons, phone 202/272-6874.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is revising its final rule on the Adult Basic Education (ABE) Program. A proposed rule on this subject was published in the **Federal Register** August 17, 1984 (at 49 FR 32999). Final amendments to this rule were published in the **Federal Register** June 20, 1985 (at 50 FR 25662 et seq.). At the time of final rule publication, the Bureau of Prisons withheld final action on that portion of the proposed rule raising the minimum academic grade level from 6.0 to 8.0 and on responding to public comment on the higher grade level requirement. Instead, a pilot program was implemented at several institutions to determine the number of inmates affected by the increase, the adequacy of educational resources, and the effect of the expanded program on other institution operations. A decision on whether to finalize the 8.0 minimum grade level was to be made following an assessment of the pilot project. Based on this assessment the Bureau has determined that increasing the minimum grade level from 6.0 to 8.0 is feasible. Because the Bureau had previously delayed implementing the 8.0 minimum grade level pending the results of the pilot program, because no opposition was expressed by inmates involved in the program, and to allow an effective date at the beginning of a fiscal quarter, the Bureau of Prisons finds good cause under 5 U.S.C. 533(d) to publish its final rule without a delay in the effective date.

Interested persons were invited to submit comments on the proposed rule. Members of the public may submit comments concerning the present rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Summary of Changes/Comments

1. One commenter seemed to be requesting the Bureau's justification for raising the minimum grade level. The Bureau proposed raising the minimum grade level from 6.0 to 8.0 because the U.S. Department of Education and similar educational agencies have adopted the 8.0 grade level as the level of basic nationwide literacy. The Bureau's concern, and justification for delaying final action on the 8.0 grade level proposal, was to see what impact this increase would have on institution resources and programming. The results of the pilot program suggest that the increased grade level can be accommodated without adversely affecting other aspects of the institution's operation.

2. Section 544.70—In section 544.70 and all remaining sections of this rule, the reference to a 6.0 grade level is changed to read an 8.0 grade level.

3. Section 544.71—Section 544.71(a)(4) inserts "July 1, 1986", as this is the effective date for requiring an 8.0 grade level. Proposed § 544.71(a)(5) is now made final. That section exempts from the 8.0 grade level requirement an inmate who, during the inmate's present confinement, has completed an ABE program at the 6.0 academic grade level. Based on new paragraph (a)(5), existing paragraph (a)(5) becomes new final paragraph (a)(6).

4. Section 544.72—To clarify the intent of § 544.72(a), the word "or" is substituted for the word "and". An inmate is only enrolled in that area for which an academic grade level below 8.0 is identified. In § 544.72(c) the wording is changed, but the intent remains the same.

5. Section 544.73—In this paragraph the wording is changed, but the intent remains the same.

List of Subjects in 28 CFR Part 544

Education, Libraries, Prisoners, Recreation.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR Chapter V is amended as follows: In Subchapter C, by revising Part 554, Subpart H.

Dated: June 5, 1986.

J. Michael Quinlan,

Deputy Director, Bureau of Prisons.

In Subchapter C, revise Part 544, Subpart H to read as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 544—EDUCATION

* * * * *

Subpart H—Adult Basic Education (ABE) Program

Sec.
544.70 Purpose and scope.
544.71 Applicability.
544.72 Procedures.
544.73 Federal Prison Industries (UNICOR) and inmate performance pay (IPP) assignments.
544.74 Incentives.
544.75 Disciplinary action.

Authority. 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006-5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart H—Adult Basic Education (ABE) Program

§ 544.70 Purpose and scope.

An inmate confined in a federal institution who cannot read, write, or do mathematics at the 8.0 academic grade level is required to attend an adult basic education (ABE) program for a minimum of 90 calendar days. The Warden shall establish incentives to encourage an inmate to complete the ABE program.

§ 544.71 Applicability.

(a) The provisions of this subpart on the adult basic education program apply to all inmates in federal institutions *except:*

(1) Pre-trial inmates;

(2) Inmates committed for purpose of study and observation under the provisions of 18 U.S.C. 4205(c);

(3) Sentenced aliens with a deportation detainer;

(4) Inmates already in UNICOR or Inmate Performance Pay (IPP) assignments in pay grades 1, 2, and 3 at the time of implementation of this rule (July 1, 1986) who do not presently function at the 8.0 academic grade level;

(5) Inmates who during their present confinement have previously completed the ABE program at the time the Bureau implements its 8.0 academic grade level requirement.

(6) Other inmates who, for good cause, the Warden may determine are exempt from the provisions of this rule.

(b) Staff shall document in the inmate's education file the specific reasons for not requiring the inmate to participate in the ABE program.

§ 544.72 Procedures.

(a) The Warden at each federal institution shall ensure that an inmate who is functioning below an 8.0 academic grade level in reading, writing, or mathematics is enrolled in the ABE program.

(b) The Warden or designee shall assign to an education staff member the responsibility to coordinate the institution's ABE program. The ABE coordinator shall meet initially with the inmate for the purpose of enrolling the inmate in the ABE program. Subsequently, the ABE coordinator shall formally interview each inmate involved in the ABE program at least once every 30 days to review and record the inmate's progress in this program. The ABE coordinator shall place documentation of this inteview in the inmate's education file.

(c) At the end of 90 calendar days, excluding sick time, furloughs, or other authorized absences from scheduled classes, the inmate's unit team shall meet with the inmate to seek the inmate's continued participation in the ABE program until the inmate reaches the 8.0 academic grade level. At this time, the inmate may elect not to continue in the ABE program, and no disciplinary action will be taken. The inmate may not discontinue this program where treatment is mandated by statute.

§ 544.73 Federal Prison Industries (UNICOR) and inmate performance pay (IPP) assignments.

Inmates who wish to secure a UNICOR or IPP work assignment above the fourth grade of compensation must be able to demonstrate achievement of at least an 8.0 academic grade level. An inmate may be assigned to the fourth grade of compensation in a UNICOR or IPP work assignment contingent on the inmate's enrollment, and satisfactory participation, in the ABE program. Failure of an inmate to make adequate progress in the ABE program may be used as the basis to remove the inmate from the UNICOR or IPP work assignment.

§ 544.74 Incentives.

The Warden shall establish a system of incentives to encourage an inmate to obtain a minimum academic grade level of 8.0.

§ 544.75 Disciplinary action.

As with other mandatory programs, such as work assignments, staff may take disciplinary action against an inmate whose academic level is below the 8.0 grade level when that inmate refuses to enroll in, or to complete, the mandatory 90 calendar days ABE program.

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federal register

Tuesday
June 10, 1986

Part IV

Department of Health and Human Services

Public Health Service

42 CFR Part 36
Indian Health Services; Eligibility; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

Indian Health Services; Eligibility

AGENCY: Public health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing changes to the regulations governing who may receive health services from the Indian Health Service (IHS). Under this proposal, an eligible person must be: (1) A member of, or eligible for membership in, a Federally recognized Indian tribe, (2) of one-quarter (¼) or more Indian or Alaska Native ancestry, and (3) reside within a designated health service delivery area. If the person is not a member of, or eligible for membership in, a Federally recognized Indian tribe, then the person must be of one-half (½) or more Indian or Alaska Native ancestry, and reside within a designated health service delivery area.

DATE: Written comments must be received on or before October 8, 1986. In addition, public meetings will be held in each of the IHS Areas at which the public will be invited to express their views. These public meetings will be advertised locally and held during the period from the date of publication of this notice to October 8, 1986. The IHS Area and Program offices will send copies of this Notice of Proposed Rulemaking to each tribe within their jurisdiction and invite each tribe to participate in these meetings. We especially invite comments from tribes and tribal organizations regarding how these proposed rules will impact on the eligibility of their members for IHS services.

ADDRESS: Written comments on these proposed rules may be sent to Richard J. McCloskey, Indian Health Service, Room 6A-20, 5600 Fishers Lane, Rockville, Maryland 20857. Comments will be made available for public inspection at this address from 8:30 a.m. to 5:00 p.m. beginning approximately 2 weeks after publication of this notice. The public meetings will be held at times and locations which will be announced by the local IHS Area or Program Office.

FOR FURTHER INFORMATION CONTACT: Richard J. McCloskey, Indian Health Service, Room 6A-20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone 301-443-1116.

SUPPLEMENTARY INFORMATION: Interested persons will have 120 days from publication of this proposed rule, to submit written comments. In addition, within the 120 day comment period, the IHS will hold public meetings at selected locations throughout the country to receive comments on this proposal from Indian and Alaska Native people and others who may be interested. The IHS will inform Indian tribal groups and organizations of, and advertise locally, the dates and places of these meetings. The IHS Area and Program offices will send copies of this Notice of Proposed Rulemaking to each tribe within their jurisdiction and invite each tribe to participate in these meetings. We especially invite comments from tribes and tribal organizations regarding how these proposed rules will impact on the eligibility of their members for IHS services.

The present regulations governing who may receive health services from the IHS are published at 42 CFR 36.12 and 36.23. In order to be eligible for direct services at IHS facilities under § 36.12, a person must be of "Indian descent" and "belong to the Indian community served" by the local IHS health facility and program. No particular degree of Indian ancestry (blood quantum) is required and the term "Indian community" is not defined. The regulations have been construed liberally to include anyone who can reasonably be regarded as an Indian regardless of degree of Indian ancestry or tribal affiliation.

In order to be eligible for contract health services (services purchased from non-IHS hospitals and medical providers) one must meet additional requirements. Under § 36.23, a person must be eligible for direct care from the IHS and in addition reside within a designated contract health services delivery area and be either a member of, or have close social and economic ties with, the tribe located on the reservation. These requirements are more restrictive than those for direct care because contract health services funds are very limited. However, having different requirements for direct and contract services has caused problems when patients at IHS facilities must be referred to non-IHS facilities for needed care.

We propose tightening up eligibility requirements based upon tribal affiliation, degree of Indian ancestry, and residence within a defined geographic service area. This will set limits on the eligible service population enabling us to provide more services within the limited IHS resources available. It will also enable us to allocate resources among beneficiary groups based upon clearly defined local service populations. In addition, substituting more precise eligibility requirements applicable to both direct and contract health services will enhance coordination of patient care in IHS and non-IHS facilities.

Proposed Eligibility Requirements

We propose adding a definition of "Indian and Alaska Native ancestry" meaning descent from a member of an Indian or Alaska Native tribe that has been Federally recognized by treaty or otherwise. This will establish a line of descent for purposes of eligibility, but not all persons of Indian or Alaska Native ancestry will be eligible for IHS services.

With this definition in mind, we propose the following eligibility requirements for IHS services. Persons of Indian or Alaska Native ancestry must:

(1) Be a member of, or eligible for membership in, a Federal recognized Indian tribe; *and*

(2) Be of one quarter (¼) or more Indian or Alaska Native ancestry; *and*

(3) Reside within a designated health service delivery area.

If a person is not a member of, or eligible for membership in, a Federally recognized Indian tribe, then in order to be eligible for IHS services the person must be of one-half (½) or more Indian of Alaska Native ancestry *and* reside within a designated health service delivery area. We propose this exception to the tribal membership requirement to include persons who do not qualify for membership in any one tribe for reasons such as multiple tribal heritage, but who have a high degree of Indian or Alaska Native ancestry.

Blood quantum requirements, as well as tribal membership, have historically been used by Congress, Federal agencies, and the courts to determine who is an "Indian" for purposes of Federal benefits, claims awards, and Federal jurisdiction. There is, however, no uniform Federal standard. We are proposing a one-quarter (¼) blood quantum requirement in addition to tribal membership as a means of achieving fairness and equity across tribal lines. As we note in the discussion of pre-rulemaking activity below, many tribes recommended that we adopt this requirement and we specifically invite comment on this issue.

Furthermore, a one-quarter (¼) degree requirement is consistent with the membership requirements of many tribes. Tribal membership criteria vary, but most tribes have blood quantum requirements for membership. Of the 213

tribal constitutions which we were able to examine at BIA Headquarters, 116 tribes required ¼ or more, 18 required ½ or more, 22 required ⅛ or more, 7 required 1/16 or more, and 50 had no blood quantum requirements as such, but generally required descendency from a member listed on the original tribal roll. In addition, one-quarter (¼) or more Alaska Native blood is generally required for enrollment in Alaska Native corporations.

We have included four exceptions to the above eligibility requirements. These exceptions recognize special circumstances wherein services are provided under current law and regulations:

(1) Persons who meet the above eligibility criteria except for the residency requirement, and who formerly resided within a health service delivery area, may return to their home community within that area and receive direct and contract health services there. This exception includes the minor children of such persons if the children meet the eligibility criteria except for the residency requirement.

(2) The IHS will provide direct and contract health services to a non-Indian woman pregnant with an eligible Indian's child but only during the period of her pregnancy through post-partum (generally about 6 weeks after delivery). In cases where the woman is not married to the eligible Indian under applicable state or tribal law, paternity must be acknowledged in writing by the Indian or determined by order of a court of competent jurisdiction.

(3) The IHS will provide direct and contract health services to non-Indian members of an eligible Indian's household if the medical officer in charge determines that the services are necessary to control acute infectious disease or a public health hazard.

(4) Upon request and with the approval of the service unit director, the IHS may for good cause provide contract health services to an otherwise eligible person for up to 90 days after the person ceases to reside in a health service delivery area.

Our proposal consolidates provisions governing eligibility for contract health services with those for direct services. There are no additional eligibility requirements for contract health services. Provisions are retained allowing the IHS to establish medical priorities for health services, and precluding authorization for contract health services when and to the extent that alternate resources are or should be available and accessible. In addition, contract health services will not be authorized when and to the extent that Indian Health Service facilities are available and accessible to provide the needed care.

The exceptions to the residency requirements for students, transients, and foster children contained in the present regulations are incorporated into a new definition of "reside". Sections 36.24 and 36.25 of the present regulations governing authorization for contract health services and reconsideration and appeals are retained and renumbered as § 36.13 and § 36.14 respectively. As redesignated, § 36.14 governing reconsideration and appeals has been revised so that the reconsideration and appeals process applies to IHS denials of direct as well as contract health services.

Health Service Delivery Areas

We are proposing geographic residency requirements to reflect the IHS obligation to Indians living "on or near" reservations and in traditional Indian areas (Oklahoma and Alaska). We propose deleting § 36.22 of the present regulations designating contract health service delivery areas and substituting a new § 36.15 governing designation of health service delivery areas for both direct and contract health services. The IHS will designate specific geographic areas surrounding Federal Indian reservations as health service delivery areas. Designations will be made by publication of a notice in the **Federal Register** to accompany publication of final regulations.

It is our intention to leave current service delivery areas in place at the outset. Thus, the notice accompanying publication of final regulations will designate health service delivery area boundaries conforming to existing service areas. This will avoid major disruptions in service delivery patterns.

However, it is also our intention to begin a reassessment of service area boundaries based upon the principles enunciated in § 36.15. Some of the current service areas composed of counties including reservation land and bordering on the reservation may have configurations which do not constitute a reasonable service area. This proposed regulation sets forth a procedure under which the IHS, after consultation with the Indian tribes affected, could redesignate the boundaries of any health service delivery area by publication of a notice in the **Federal Register.** Such redesignations would be based upon consideration of specific factors set out in proposed § 36.15.

Our proposal recognizes that in some situations it is inappropriate to use Federal Indian reservations as the basis for defining health service delivery areas. This is the case where reservations are nonexistent or very small and scattered, and the Indian population is widely dispersed. In these situations, the proposed new regulation authorizes the IHS to designate entire states, counties, or census divisions as health service delivery areas. This conforms to present practice. Section 36.22 of the present regulations designates the States of Alaska, Oklahoma and Nevada, as well as certain groups of counties in Minnesota, Wisconsin and Michigan as contract health service delivery areas.

The proposal also allows any Indian tribe located within a health service delivery area to request a change in area boundaries. Requests must be supported by documentation related to the factors IHS must consider in redesignating area boundaries. Tribes will have a right to appeal IHS Area Office determinations on such requests to the IHS Director. See proposed § 36.15(d).

Fee-for-Service Care

We also propose updating the regulation to specify those circumstances in which the IHS may provide direct services at its facilities on a fee-for-service basis. See proposed § 36.12(d). These are:

(1) in emergencies under section 322(b) of the Public Health Service Act, 42 U.S.C. 249(b), and 42 CFR 32.111 of the regulations;

(2) to Public Health Service and other federal beneficiaries under Economy Act (31 U.S.C. 1535) arrangements to the extent that providing services does not interfere with or restrict the provision of services to Indian and Alaska Native beneficiaries;

(3) to non-beneficiaries residing within the health service delivery area under policies approved by the tribe or tribes located on the reservation but only to the extent that providing services does not interfere with or restrict the provision of services to Indian and Alaska Native beneficiaries.

The above provisions governing fee-for-service care reflect current law and policy. They are included here to update the regulations. We note that tightening up the eligibility requirements as proposed will place certain persons, who might have been eligible for free care under the present rules, in the fee-for-service category. The proposed eligibility requirements will not necessarily eliminate the actual provision of services to those individuals who no longer qualify for free care from the IHS. They may still receive services from IHS facilities on a

fee-for-service basis under eligibility policies approved by the local tribe(s).

Beneficiary Identification Cards

Proposed § 36.16 requires the IHS, as part of its ongoing registration system, to maintain a list of the names and addresses of persons eligible for services, and to issue beneficiary identification cards as evidence of beneficiary status. This will enable the IHS to have an accurate count of beneficiary populations for purposes of budget allocations. In addition, use of such cards will help local IHS officials identify beneficiaries and carry out other administrative tasks related to admitting patients for treatment. The IHS is presently conducting a registration system so that the administrative process for issuance of beneficiary identification cards is already in place.

Transition

We have not included provisions in this proposal governing the transition from current regulations to new rules. We encourage comments regarding what steps the IHS might take to facilitate that transition for persons who may no longer be eligible under the new rules.

Definitions

Finally we are proposing to delete the definitions in § 36.1 as obsolete, and use the definitions in § 36.21, with certain changes, in a new definitions section for this proposed regulation. The changes are:

(1) Deleting the definition for "contract health service delivery area" and subtituting a definition for "health service delivery area";

(2) Adding a definition of "reside" to mean "living in a locality with the intent to make it a fixed and permanent home", but including exceptions for students, certain transients, and foster children living temporarily away from the service area;

(3) Adding a definition of "Indian or Alaska Native ancestry" as explained above;

(4) Confronting the definition of "Indian tribe" to that contained in the Indian Self-Determination Act, 25 U.S.C. 450b(b); and

(5) Revising the definition of "alternate resources" to clarify that the definition is intended to cover all non-IHS health care providers, institutions, and payment sources but not IHS facilities. Although it is IHS policy not to authorize contract health services when needed care is available and accessible at IHS facilities (see proposed § 36.12(c)), the reference to IHS facilities in the present definition of alternate resources is confusing.

Authority To Issue This Rule

The underlying statutory authority for the IHS program is the Snyder Act, 25 U.S.C. 13. That Act states in pertinent part:

> The Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States for the following purposes:
>
> * * * * *
>
> For relief of distress and conservation of health.
>
> * * * * *
>
> For the employment of . . . physicians.

This authority, with respect to Indian Health, was transferred to the Secretary of Health and Human Services in 1955. (42 U.S.C. 2001 *et seq.*).

The Supreme Court interpreted the Snyder Act in a landmark case entitled *Morton* v. *Ruiz*, 415 U.S. 199 (1974). The Court noted that "The Snyder Act . . . does not provide eligibility requirements or the details of any program." 415 U.S. at 208. The Court went on to make it very clear that Federal agencies administering Snyder Act programs have the power to define eligibility requirements and limit program benefits in accordance with rational standards. The Court stated:

> Having found that the congressional appropriation was intended to cover welfare services at least to those Indians residing 'on or near' the reservation, it does not necessarily follow that the Secretary is without power to create reasonable classifications and eligibility requirements in order to allocate the limited funds available to him for this purpose. (Citations omitted). Thus, if there were only enough funds appropriated to provide meaningfully for 10,000 needy Indian beneficiaries and the entire class of eligible beneficiaries numbered 20,000, it would be incumbent upon the BIA to develop an eligibility standard to deal with the problem; and the standard, if rational and proper, might leave some of the class otherwise encompassed by the appropriation without benefits. But in such a case the agency must, at a minimum, let the standard be generally known so as to assure that it is being applied consistently and so as to avoid both the reality and the appearance of arbitrary denial of benefits to potential beneficiaries. (415 U.S. at 231–32).

The *Ruiz* decision reconciles the power of the administering Federal agency to limit Snyder Act program benefits through adoption of rational eligibility requirements with the trust responsibilities of the Federal Government toward Indians. The Court viewed the trust responsibility as requiring the Federal agency to deal fairly with Indians, *i.e.*, "promulgate eligibility requirements according to established procedures." 415 U.S. at 237.

Paperwork Reduction Act

Proposed § 36.12, § 36.14, § 36.15(d) and § 36.16, contain information collection requirements. As required by § 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, ATTN: Desk Office for HHS.

Pre-Rulemaking Activity

The current regulation dealing with Indian eligibility for IHS programs has been a topic of discussion for many years both within the Indian community and IHS. On June 6, 1983, we published a notice in the **Federal Register** (48 FR 25273) asking for comments on a number of options for eligibility criteria. We received a total of 242 responses: 28 from tribal governments, 4 from tribal organizations, 15 from other Indian organizations, 4 from other organizations, and 191 from individuals. The comments from individuals generally supported retention of current eligibility requirements. The comments from tribal groups generally supported use of a blood quantum requirement for IHS eligibility, but expressed concern that we try to avoid hardship in localities where unemployment is a problem and no other health insurance exists. The majority of the tribes responding stated that if we adopt a blood quantum criterion, that it be one-quarter (¼) blood.

This proposed rule does not have cost implications for the economy of $100 million or more independent of the IHS appropriation, nor will it result in a major increase in cost for consumers, industries, or Government agencies, nor will it adversely affect competition. Therefore, the Secretary has determined that the rule is not a "major rule" under Executive Order 12291, and a regulatory imapct analysis is not required. Further, these regulations will not have a significant economic impact on a substantial number of small entities, and therefore do not require a regulatory

flexibility analysis under the Regulatory Flexibility Act of 1980.

List of Subjects in 42 CFR Part 36

Alaska natives, Indians, Health, Health facilities, Health service delivery areas, Contract health services.

Dated: January 27, 1986.

Donald Ian Macdonald,

Acting Assistant Secretary for Health.

Approved: May 19, 1986.

Otis R. Bowen,

Secretary.

PART 36—[AMENDED]

For the reasons set out in the preamble, we propose amending Subparts A, B and C of 42 CFR Part 36 as follows:

1. The authority citation for Part 36 continues to read as follows:

Authority: Sec. 3, 68 Stat. 674; 42 U.S.C. 2003, 42 Stat. 208, sec. 1, 68 Stat. 674; 25 U.S.C. 13, 42 U.S.C. 2001 unless otherwise noted.

2. Subpart A is amended by revising the title, removing § 36.1, and redesignating §§ 36.2 and 37.3 as §§ 36.1 and 36.2 respectively, to read as follows;

Subpart A—Purpose

36.1 Purpose of the regulation.

* * * * *

36.2 Administrative instructions.

* * * * *

3. Subparts B and C are amended by

A. Redesignating § 36.12(c) as § 36.11(d),

B. Revising § 36.12,

C. Revising and redesignating § 36.21 as § 36.10,

D. Redesignating § 36.24 as §36.13,

E. Removing § 36.14 and by revising paragraph (a) introductory text of § 36.25 and then by redesignating § 36.25 as § 36.14. The revised paragraph (a) introductory text would read as set forth below, and

F. Adding new §§ 36.15 and 36.16 to read as set forth below. The revised and added portions of Subpart B read as follows:

§ 36.10 Definitions.

As used in this subpart:

(a) "Alternate resources" means resources other than those of the Indian Health Service available and accessible to the individual, such as health care providers and accessible to the individual, such as health care providers and institutions, health care payment sources, or other health care programs for the provision of health services, (e.g., medicare, medicaid, State or local health care programs or private insurance) for which the individual may be eligible or would be eligible except for the existence of the IHS contract health services program.

(b) "Appropriate ordering official" means, unless otherwise specified by contract with the health care facility or provider, the ordering official for the health service delivery area in which the individual requesting contract health services or on whose behalf the services are requested, resides.

(c) "Area Director" means the Director of an Indian Health Service area designated for purposes for administration of Indian Health Service Programs.

(d) "Contract health services" means health services provided at the expense of the Indian Health Service from public or private medical or hospital facilities other than those of the Service.

(e) "Emergency" means any medical condition for which immediate medical attention is necessary to prevent the death or serious impairment of the health of an individual.

(f) "Health service delivery area" means a geographic area designated pursuant to § 36.15 of this Subpart.

(g) "Indian or Alaska Native ancestry" means descent from a member of an Indian or Alaska Native tribe that has been Federally recognized by treaty or otherwise.

(h) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et. seq.*, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(i) "Program Director" means the Director of an Indian Health Service "program area" designated for the purposes of administration of Indian Health Service programs.

(j) "Reservation" means any Federally recognized Indian tribes, reservation, Pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), and Indian allotments.

(k) "Reside" means living in a locality with the intent to make it a fixed and a permanent home. The following persons will be deemed residents of the health service delivery area:

(1) Students who are temporarily absent from the health service delivery area during full time attendance at programs of vocational, technical, or academic education including normal school breaks;

(2) Persons who are temporarily absent from the health service delivery area for purposes of travel or employment (such as seasonal or migratory workers);

(3) Indian children placed in foster care outside the health service delivery area by order of a court of competent jurisdiction and who were residents within the service area at the time of the court order.

(l) "Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

(m) "Service" means the Indian Health Service.

(n) "Service Unit Director" means the Director of an Indian Health Service "Service unit area" designated for purposes of administration of Indian Health Service programs.

§ 36.12 Persons to whom health services will be provided.

(a) Subject to the requirements of this Subpart, the Indian Health Service will provide direct services at its facilities, and contract health services, as medically indicated, and to the extent that funds and resources allocated to the particular health service delivery area permit, to persons of Indian and Alaska Native ancestry who:

(1) Are members of, or eligible or membership in, a federally recognized Indian tribe; *and*

(2) Are of one quarter (¼) or more Indian or Alaska Native ancestry as determined by the Department of the Interior or through other reasonable means; *and*

(3) Reside within a health service delivery area designated under § 36.15 of this part; *or*

(4) Are not members of, or eligible for membership in, a Federally recognized Indian tribe but are of one half (½) or more Indian or Alaska Native ancestry and reside within a health service delivery area designated under § 36.15 of this part.

(b) Subject to the requirements of this Subpart, the Indian Health Service will also provide direct services at its facilities and contract health services, as medically indicated, and to the extent that funds and resources allocated to the particular health service delivery area permit, in the circumstances listed below:

(1) Persons who meet the eligibility criteria in paragraph (a) of this section except for the residency requirement, who formerly resided within a health service delivery area designated under

§36.15 of this part, and who return to their home community within that area and receive services there (and minor children of such persons if the children meet the eligibility criteria in paragraph (a) of this section except for the residency requirement).

(2) A non-Indian woman pregnant with an eligible Indian's child but only during the period of her pregnancy through post-partum (generally about 6 weeks after delivery). In cases where the woman is not married to the eligible Indian under applicable state or tribal law, paternity must be acknowledged in writing by the Indian or determined by order of a court of competent jurisdiction.

(3) Non-Indian members of an eligible Indian's household if the medical officer in charge determines that the health services are necessary to control acute infectious disease or a public health hazard.

(4) Upon request and with the written approval of the Service Unit Director for good cause, to an otherwise eligible person for up to 90 days after the person ceases to reside in a health service delivery area.

(c) Contract health services will not be authorized when and to the extent that Indian Health Service facilities are available and accessible to provide the needed care. When funds are insufficient to provide the volume of contract health services needed by the service population, the Indian Health Service shall determine service priorities on the basis of medical need. Contract health services will not be authorized when, and to the extent that, alternate resources for payment:

(1) Are available and accessible to the beneficiary, or

(2) Would be available and accessible if the beneficiary were to apply for them, or

(3) Would be available and accessible under state or local law or regulation in the absence of the individual's eligibility for contract health services from the Indian Health Service.

(d) The Indian Health Service may provide direct services at its facilities on a fee-for-service basis to persons who are not beneficiaries under paragraphs (a) and (b) of this section in any of the following circumstances:

(1) In emergencies under section 322(b) of the Public Health Service Act, 42 U.S.C. 249(b), and 42 CFR 32.111.

(2) To Public Health Service and other Federal beneficiaries under Economy Act (31 U.S.C. 1535) arrangements to the extent that providing services does not interfere with or restrict the provision of services to Indian and Alaska Native beneficiaries;

(3) To non-beneficiaries residing within the health service delivery area when approved by the tribe or tribes located on the reservation but only to the extent that providing services does not interfere with or restrict the provision of services to Indian and Alaska Native beneficiaries.

§ 36.14 Reconsideration and appeals.

(a) Any person who has asked for and been denied health services by the Indian Health Service or by a tribal organization under the Indian Self-Determination Act, shall be notified of the denial in writing together with a statement of the reasons for the denial. The notice shall advise the applicant that within 30 days from the receipt of the notice the applicant:

(1) * * *

* * * * *

§ 36.15 Health service delivery areas.

(a) The Indian Health Service will designate and publish as a notice in the **Federal Register** specific geographic areas including Federal Indian reservations and areas surrounding those reservations as health service delivery areas.

(b) The Indian Health Service may, after consultation with the Indian tribes affected, redesignate the boundaries of any health service delivery area by publication of a notice in the **Federal Register.** Any redesignation of a health service delivery area will include the reservation, and those areas close to the reservation boundaries which can reasonably be considered part of the reservation service area based on consideration of the following factors:

(1) The number of persons residing in the off-reservation area who would be eligible under § 36.12(a) (1), (2), and (4).

(2) Whether the governing body of the tribe(s) on the reservation treats those persons as an integral part of the reservation tribal community;

(3) The number of persons residing in the off-reservation area who have traditionally received health services from the Indian Health Service and whose eligibility for services would be affected;

(4) The geographic proximity of the off-reservation area to the reservation.

(5) Whether the Indians residing in the off-reservation area can be expected to need and to use health services provided by the Indian Health Service given the alternate resources (health facilities and payment sources) available and accessible to them.

(c) Notwithstanding paragraphs (a) and (b) of this section above, the Indian Health Service may designate States, subdivisions of States such as counties or towns, or other identifiable geographic areas such as census divisions, as health service delivery areas where reservations are nonexistent, or so small and scattered and the Indian population so widely dispersed that it is inappropriate to use reservations as the basis for defining the health service delivery area.

(d) Any Indian tribe located within a health service delivery area may, by resolution of the tribal governing body, request a change in area boundaries. Such a request should be supported by documentation related to the factors for consideration set out in paragraph (b) of this section. The Indian tribe will be afforded the opportunity to express its views orally and in writing first to the appropriate IHS Area or Program Director, and then to the IHS Director or the Director's designee prior to any IHS decision. The decision of the IHS Director shall constitute final agency action on the tribe's request. Changes in the boundaries of health service delivery areas will be published in the **Federal Register.**

§ 36.16 Beneficiary identification cards.

The Indian Health Service, as part of its ongoing registration system, will maintain a list of the names and addresses of persons who are eligible for services under § 36.12(a), and will issue beneficiary identification cards as evidence of beneficiary status. Persons requesting beneficiary identification cards must submit evidence of tribal membership, Indian blood quantum, and residence within a health service delivery area. Questions regarding tribal membership of Indian blood quantum will be resolved through consultation with the appropriate tribe and officials of the Bureau of Indian Affairs.

4. Subpart C is amended by removing §§ 36.22 and 36.23 and reserving the Subpart to read as follows:

Subpart C—[Reserved]

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federal register

Tuesday
June 10, 1986

Part V

Department of the Interior

National Park Service

36 CFR Parts 59 and 72

Land and Water Conservation Fund Program of Assistance to States and Urban Park and Recreation Recovery Program; Post-Completion Compliance

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 59 and 72

Land and Water Conservation Fund Program of Assistance to States and Urban Park and Recreation Recovery Program; Post-Completion Compliance

AGENCY: National Park Service (NPS), Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule serves as a guide to post-completion compliance responsibilities under the Land and Water Conservation Fund (L&WCF) State assistance and the Urban Park and Recreation Recovery (UPARR) grants programs administered by the National Park Service. The proposed rule incorporates existing program requirements pertaining to the conversion of assisted recreation sites and facilities to non-public recreation uses, and incorporates existing requirements regarding residency status of users of assisted sites into the Code of Federal Regulations. This action is necessary in order to assure that recipients of financial assistance under the L&WCF and UPARR programs continue to maintain assisted sites and facilities in public recreation use following project completion and to assure that assisted facilities remain accessible to the general public including non-residents of assisted jurisdictions. The intended effect of this action is to reaffirm and clarify existing post-completion compliance responsibilities of the grants so as to assure full compliance on the part of all past and future recipients of assistance.

DATE: Comments must be in writing on or before July 10, 1986.

ADDRESS: Written comments may be mailed to the Chief, Recreation Grants Division (775), U.S. Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments may also be delivered to Room 2211, 1100 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. D. Thomas Ross or Mr. Michael D. Wilson, U.S. Department of the Interior, National Park Service, Recreation Grants Division (775), Washington, DC 20013-7127 (Telephone: 202/343-3700).

SUPPLEMENTARY INFORMATION: The L&WCF program was established by the L&WCF Act of 1965 to stimulate a nationwide action program to assist in preserving, developing, and assuring to all citizens of the United States of present and future generations such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation. The program provides matching grants to States, and through the States to local units of government, for the acquisition and development of public outdoor recreation sites and facilities. Since the origin of the L&WCF program in 1965, over $2.9 billion has been appropriated to the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa and the Northern Marianas. The income for the L&WCF is provided largely from Outer Continental Shelf mineral receipts, with additional income from the Motorboat Fuels Tax, recreation user fees, and through the sale of Federal surplus property. More than 32,500 L&WCF projects have been approved for the acquisition of park lands, the development of outdoor recreation facilities, and for recreation planning. Federal obligations have been matched by State and local contributions, for a total recreation investment of almost $6 billion. Of the total number of projects, more than 8,000 have been for the acquisition of nearly 2.8 million acres of park land while more than 23,800 projects have been for the development of outdoor recreational facilities. Sixty-three percent of the total funds obligated have gone to locally sponsored projects.

The L&WCF program is listed as No. 15.916 in the Catalog of Federal Domestic Assistance. No prior publication of regulations for this program have been codified in the Code of Federal Regulations. The administrative policies, procedures, and guidelines applicable to the program are set forth in the L&WCF Grants Manual (NPS-34).

The UPARR program was established by the UPARR Act of 1978 to help distressed urban areas through the rehabilitation of critically needed recreation sites and facilities, and to develop improved recreation programs by encouraging and stimulating local governments to revitalize their park and recreation systems and to make long-term commitments to continuing maintenance of these systems. Emphasis since the program's inception has been placed on the demonstration potential of UPARR projects through assisting local governments in planning for the overall revitalization of community recreation systems, the rehabilitation of existing recreation facilities, and the use of innovative approaches to improve park system management and recreation opportunities. More than 400 cities and urban counties have participated in the UPARR program (through receipt of grants and/or preparation of recreation plans) since its administrative inception in July 1979. To date, about 350 local jurisdictions in 42 States, the District of Columbia, and Puerto Rico have received grant assistance. Since Fiscal 1979, $179 million has been appropriated for these grants. UPARR assistance has been used to fund 395 Rehabilitation grants for the renovation of existing recreation facilities and 110 Innovation grants to demonstrate innovative and cost-effective approaches to recreation services and improved management of recreation systems. Congress appropriated no funds for Rehabilitation and Innovation grants in Fiscal Years 1985 and 1986 and no new grant assistance for these purposes is currently available. More than 420 grants have been awarded to assist in the preparation of Recovery Action Program recreation plans. A limited amount of old UPARR funds carried over from earlier grants is available to improve existing plans.

The UPARR program is listed as No. 15.919 in the Catalog of Federal Domestic Assistance. Program regulations were originally codified as 36 CFR Part 1228. These regulations have since been redesignated in the Code of Federal Regulations as 36 CFR Part 72. The administrative policies, procedures, and guidelines applicable to the program are set forth in the UPARR Administration Guideline (NPS-37).

In accordance with L&WCF and UPARR program policy, a conversion of use occurs when an assisted site is wholly or in part converted to other than public recreation use. Such conversions require the advance approval of NPS and the provision of suitable replacement land. Conversions at L&WCF and UPARR assisted sites generally occur in the following situations: (1) Property interests are conveyed for non-public or non-recreation uses; (2) Non-eligible recreation facilities are developed within the project area; or, (3) Recreation use of the assisted site is terminated. For L&WCF, the development of a non-outdoor recreation facility or the unauthorized sheltering of an outdoor facility is also a conversion. Authorized sheltering of pools and skating rinks in designated climatic areas in accordance with section 6(e)(2) of the L&WCF Act and approved underground utility easements that do not have significant impacts upon the recreational use of the park or facility are not considered to be conversions.

Examples of L&WCF and UPARR conversions include the construction of throughroads as opposed to recreation area access roads, construction of residential, industrial, and commercial developments, (for L&WCF) unauthorized sheltering of assisted facilities, and other uses not permitted under the applicable program.

Although not included in this rulemaking, recipients of L&WCF and UPARR assistance should be aware that existing laws, regulations, and program policy regarding post-completion compliance with Title VI of the Civil Rights Act of 1964 and section 504 of the Rehabilitation Act of 1973 remain requirements of these programs and will continue to be fully enforced. Compliance responsibilities of these Acts have been previously codified in the Code of Federal Regulations as 43 CFR Part 17.

All post-completion compliance requirements of the programs will remain in force regardless of the programs' funding and authorization status at any given point. States are responsible for assuring full compliance for both State and locally sponsored L&WCF projects. Local recipients of UPARR assistance are responsible for full compliance with the post-completion requirements of those grants.

Program Information

L&WCF grants are provided to the States, and through the States to local jurisdictions, on a matching basis for up to fifty percent (50%) of the total project related allowable costs. Grants to eligible insular areas (Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands) may be for 100 percent assistance. Appropriations from the L&WCF may be made annually by Congress to the Secretary of the Interior who apportions the funds to the States. Payments for all projects are made to the State organization which is authorized to accept and administer funds paid for approved projects.

Properties acquired or developed with L&WCF assistance are prohibited by section 6(f)(3) of the L&WCF Act from conversion to other than public outdoor recreation use without the approval of the Secretary. This approval is a discretionary action and should not be considered a right of the project sponsor. The authority for approval of conversions has been delegated by the Secretary to the Director of NPS who has redelegated that authority to the NPS Regional Directors. NPS will only consider conversion requests if the State has evaluated all practical alternatives. Where conversions are desired, the State must assure that the conversion is in accord with the required Statewide Comprehensive Outdoor Recreation Plan and must provide for the substitution of other recreation properties determined by NPS to be of at least equal fair market value and of reasonably equivalent usefulness and location.

In accordance with section 6(f)(8) of the L&WCF Act, discrimination in the use of L&WCF assisted sites on the basis of residence is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on such basis. The public's attention to § 59.04(c) is requested. NPS is particularly interested in comments regarding fees charged to nonresidents of recipient jurisdictions.

UPARR Rehabilitation and Innovation grants are provided to eligible urban cities and counties on a matching basis for seventy percent (70%) of the total project related allowable costs. Additional matching funds (for up to eighty-five percent of total cost) are provided for localities whose local matching share is paid wholly or in part by the State. Appropriations for the UPARR program may be made annually by Congress and funds are awarded to eligible cities and counties on a nationally competitive basis. UPARR assistance has been provided for the rehabilitation of existing recreation sites and facilities, for the demonstration of innovative approaches to the delivery of recreation services, and for the development of recreation plans. Current program emphasis is now on post-completion responsibilities of grant recipients.

Under section 1010 of the UPARR Act, sites and facilities improved with UPARR assistance may not be converted to other than public recreation uses without the approval of the Secretary (authority redelegated to the NPS Regional Directors). Such conversions will only be approved upon the provision by the recipient of substitute sites or facilities of reasonably equivalent location and usefulness and if all practical alternatives have been explored by the recipient.

Discrimination in the use of UPARR assisted sites on the basis of residence is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on such basis. The public's attention to § 72.73(c) is requested. NPS is particularly interested in comments regarding fees charged to non-residents of recipient jurisdictions.

Proposals for conversions of use under the L&WCF and UPARR programs should be submitted to the appropriate NPS Regional Director. For L&WCF, requests are to be submitted to NPS by the State Liaison Officer appointed by the Governor. For UPARR, requests are to be submitted to NPS by the recipient's Chief Executive Officer or his/her designate. NPS Regional Offices and States within thier L&WCF and UPARR jurisdiction are listed below. Names and addresses of L&WCF State Liaison Officers may be obtained by contacting the appropriate NPS Office.

Alaska Region

2525 Gambell Street, Anchorage, AK 99503 (Alaska).

Mid-Atlantic Region

143 South Third Street, Philadelphia, PA 19106
(Connecticut, District of Columbia, Delaware, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia).

Midwest Region

1709 Jackson Street, Omaha, NE 68102
(Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin).

Pacific Northwest Region

83 South King Street, Seattle, WA 98104
(Idaho, Oregon, Washington).

Rocky Mountain Region

P.O. Box 25287, Denver, CO 80225
(Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming).

Southeast Region

75 Spring Street, SW., Atlanta GA 30303
(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands).

Southwest Region

P.O. Box 728, Santa Fe, NM 87501
(Arkansas, Louisiana, New Mexico, Oklahoma, Texas).

Western Region

P.O. Box 36063, San Francisco, CA 94102
(American Samoa, Arizona, California, Guam, Hawaii, Nevada, Northern Mariana Islands).

Additional Determinations

1. Compliance with the National Environmental Policy Act (NEPA): This action does not constitute a major Federal action significantly affecting the quality of the human environment. As a regulation of an administrative nature, this action is categorically excluded from the NEPA process. Therefore, no environmental assessment or impact statement is required.

2. Executive Order 12291 and the Regulatory Flexibility Act: The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This will not have an annual gross effect on the economy of $100 million or more. This document will not result in adverse effects on competition, employment, investment, productivity, or innovation, and does not pertain to U.S. or foreign-based enterprises in domestic or export markets. The rulemaking will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This document is not a major rule and is therefore exempt from preparation of a Regulatory Impact Analysis.

3. Paperwork Reduction Act: The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.*

Authorship Statement

The primary author of these regulations was Mr. Michael D. Wilson of the National Park Service, 202/343-3700.

List of Subjects

36 CFR Part 59

Grant programs, Recreation, Outdoor Recreation Acquisition, Development, and Planning.

36 CFR Part 72

Grant programs, Recreation, Urban parks.

In consideration of the foregoing, 36 CFR Part 59 is proposed to be added to read as follows:

PART 59—LAND AND WATER CONSERVATION FUND PROGRAM OF ASSISTANCE TO STATES

Subpart A—Post-Completion Compliance Responsibilities

Sec.
59.1 Applicability.
59.2 [Reserved]
59.3 Conversion requirements.
59.4 Residency requirements.

Authority: Sec. 6, Land and Water Conservation Fund Act of 1965 as amended; Pub. L. 88-578; 78 Stat. 897; 16 U.S.C. 4601-4 *et seq.*

Subpart A—Post-Completion Compliance Responsibilities

§ 59.1 Applicability.

These post-completion responsibilities apply to each area or facility for which Land and Water Conservation Fund (L&WCF) assistance is obtained, regardless of the extent of participation of the program in the applicable area or facility and consistent with the contractural agreement between NPS and the State. Responsibility for compliance and enforcement of these provisions rests with the State for both State and locally sponsored projects. The responsibilities cited herein are applicable to the area depicted or otherwise described on the 6(f)(3) boundary map and/or as described in other project documentation approved by the Department of the Interior. In many instances, this mutually agreed to area exceeds that actually receiving L&WCF assistance so as to assure the protection of a viable recreation entity. For leased sites assisted under L&WCF, compliance with post-completion requirements of the grant ceases following lease expiration unless the grant agreement calls for some other arrangement.

59.2 [Reserved]

§ 59.3 Conversion requirements.

(a) *Background and legal requirements.* Section 6(f)(3) of the L&WCF Act is the cornerstone of Federal compliance efforts to ensure that the Federal investments in L&WCF assistance are being maintained in public outdoor recreation use. This section of the Act assures that once an area has been funded with L&WCF assistance, it is continually maintained in public recreation use unless NPS approves substitution property of reasonably equivalent usefulness and location and of at least equal fair market value.

(b) *Prerequisites for conversion approval.* Requests from the project sponsor for permission to convert L&WCF assisted properties in whole or in part to other than public outdoor recreation uses must be submitted by the State Liaison Officer to the appropriate NPS Regional Director in writing. NPS will consider conversion requests if the following prerequisites have been met:

(1) All practical alternatives to the proposed conversion have been evaluated.

(2) The fair market value of the property to be converted has been established and the property proposed for substitution is of at least equal fair market value as established by an approved appraisal (prepared in accordance with uniform Federal appraisal standards) excluding the value of structures or facilities that will not serve a recreation purpose.

(3) The property proposed for replacement is of reasonable equivalent usefulness and location as that being converted. Dependent upon the situation, and at the discretion of the Regional Director, the replacement property need not provide identical recreation experiences or be located at the same site, provided it is in a reasonably equivalent location. Generally, the replacement property should be administered by the same political jurisdiction as the converted property. NPS will consider State requests to change the project sponsor when it is determined that a different political jurisdiction can better carry out the objectives of the original project agreement. Equivalent usefulness and location will be determined based on the following criteria:

(i) Property to be converted must be evaluated in order to determine what recreation needs are being fulfilled by the facilities which exist and the types of outdoor recreation opportunities available. The property being proposed for substitution must then be evaluated in a similar manner to determine if it will meet recreation needs which are at least like in magnitude and impact to the user community as the converted site.

(ii) Replacement property need not necessarily be directly adjacent to or close by the converted site. This policy provides the administrative flexibility to determine location recognizing that the property should meet existing public outdoor recreation need. While generally this will involve the selection of a site serving the same community(ies) or area as the converted site, there may be exceptions. For example, if property being converted is in an area undergoing major demographic change and the area has no existing or anticipated future need for outdoor recreation, then the project sponsor should seek to locate the substitute area in another location within the jurisdiction. Should a local project sponsor be unable or unwilling to replace the converted property, the State would be required to assume responsibility for location of a replacement site in accordance with the stipulations noted above.

(iii) The acquisition of one parcel of land may be used in satisfaction of several approval conversions.

(4) The property proposed for substitution meets the eligibility

requirements for L&WCF assisted acquisition. The replacement property must ultimately constitute or be part of a viable recreation area. Unless the following additional conditions are met, land acquired from another public agency may not be used for substitution:

(i) The land was not originally acquired by the other agency for recreation.

(ii) The land has not been dedicated or managed for recreational purposes while in public ownership.

(iii) No Federal assistance was provided in the original acquisition by the other agency unless the assistance was provided under a program expressly authorized to match or supplement L&WCF assistance.

(iv) The selling agency is required by law to receive payment for land transferred to another public agency.

In the case of development projects for which the State match was not derived from the cost of the purchase or value of a donation of the land to be converted, but from the value of the development itself, public land which has not been dedicated or managed for recreation/conservation use may be used as replacement land even if this land is transferred from one public agency to another without cost.

(5) In the case of assisted sites which are partially rather than wholly converted, the impact of the converted portion on the remainder shall be considered. If such a conversion is approved, the unconverted area must remain recreationally viable or be replaced as well.

(6) All necessary coordination with other Federal agencies has been satisfactorily accomplished including, for example, compliance with section 4(f) of the Department of Transportation Act of 1966.

(7) The guidelines for environmental evaluation have been satisfactorily completed and considered by NPS during its review of the proposed 6(f)(3) action. In cases where the proposed conversion arises from another Federal action, final review of the State's proposal shall not occur until the NPS Regional office is assured that all environmental review requirements related to that other action have been met.

(8) State intergovernmental clearinghouse review procedures have been adhered to if the proposed conversion and substitution constitute significant changes to the original Land and Water Conservation Fund project.

(9) The proposed conversion and substitution are in accord with the Statewide Comprehensive Outdoor Recreation Plan (SCORP) and/or equivalent recreation plans.

(c) *Amendments for conversion.* All conversions require amendments to the original project agreements. Therefore, amendment requests should be submitted concurrently with conversion requests. Section 6(f)(3) project boundary maps shall also be submitted at this time to identify the changes to the original area caused by the proposed conversion and to establish a new project area pursuant to the substitution. Once the conversion has been approved, replacement property should be immediately acquired. Exceptions to this rule would occur only when it is not possible for replacement property to be identified prior to the State's request for conversion. In such cases, an express commitment to satisfy section 6(f)(3) substitution requirements within a specified period, normally not to exceed one year following conversion approval, must be received from the State. This commitment will be in the form of an amendment to the grant agreement.

(d) *Obsolete facilities.* Recipients are not required to continue operation of a particular facility beyond its useful life. However, discontinuance of a facility requires either the substitution of another approved L&WCF-eligible facility at the same site or NPS approval of a conversion. Requests regarding changes from a L&WCF funded facility to another otherwise eligible facility at the same site that contravene the original plans for the area must be made in writing to the Regional Director prior to the occurrence of the change. NPS approval is not necessarily required, however, for each and every facility use change. Rather, a project area should be viewed in the context of an overall use and should be monitored in this context. A change from a baseball field to a football field, for example, would not require NPS approval. A change from a swimming pool with substantial recreational development to a less intense area of limited development such as a passive park, or vice versa, would, however, require NPS review and approval. A primary NPS consideration in the review of requests for changes in use will be the consistency of the proposal with the Statewide Comprehensive Outdoor Recreation Plan and/or equivalent recreation plans. Changes to other than public outdoor recreation use require NPS approval and the substitution of replacement land in accordance with section 6(f)(3) of the L&WCF Act and paragraph (a) through (c) of this section.

§ 59.4 Residency requirements.

(a) *Background.* Section 6(f)(8) of the L&WCF Act prohibits discrimination on the basis of residence, including preferential reservation or membership systems, except to the extent that reasonable differences in admission and other fees may be maintained on such basis. This prohibition applies to both regularly scheduled and special events.

(b) *Policy.* There shall be no discrimination for L&WCF assisted programs and services on the basis of residence, except in reasonable fee differentials. Post-completion compliance responsibilities of the recipient should continue to ensure that discrimination on the basis of residency is not occurring.

(c) *Fees.* Fees charged to nonresidents cannot exceed twice that charged to residents. Where there is no charge for residents but a fee is charged to nonresidents, nonresident fees cannot exceed fees charged for residents at comparable State or local public facilities. Reservation, membership, or annual permit systems available to residents must also be available to nonresidents and the period of availability must be the same for both residents and nonresidents. These provisions apply only to the recreation areas described in the project agreement. Nonresident fishing and hunting license fees are excluded from these requirements.

36 CFR Part 72 is proposed to be amended as follows:

PART 72—[AMENDED]

1. The authority citation for Part 72 continues to read as follows:

Authority: Title X. National Parks and Recreation Act of 1978; Pub. L 95–625; 16 U.S.C. 2501–2514; Sec. 2 of Reorg. Plan No. 3 of 1950 (64 Stat. 1262).

2. Subpart E is added to read as follows:

Subpart E—Post-Completion Compliance Responsibilities

Sec.
72.70 Applicability.
72.71 [Reserved]
72.72 Conversion requirements.
72.73 Residency requirements.

Subpart E—Post-Completion Compliance Responsibilities

§ 72.70 Applicability

These post-completion responsibilities apply to each area or facility for which Urban Park and Recreation Recovery (UPARR) program assistance is obtained, regardless of the extent of participation of the program in the

applicable area or facility. Responsibility for compliance with these provisions rests with the grant recipient. The responsibilities cited herein are applicable to the 1010 area depicted or otherwise described in the 1010 boundary map and/or as described in other project documentation approved by the Department of the Interior. In many instances, this area exceeds that actually receiving UPARR assistance so as to assure the protection of a viable recreation entity. For leased sites assisted under UPARR, compliance with post-completion requirements of the grant following lease expiration is dictated by the terms of the project agreement.

§ 72.71 [Reserved]

§ 72.72 Conversation requirements.

(a) *Background and legal requirements.* The UPARR program has made funds available for the renovation and rehabilitation of numerous urban parks and recreation facilities. In many cases, the UPARR funds were used only in a portion of a site or facility or were only a small percentage of the funds required to renovate or rehabilitate a property. Nevertheless, all recipients of funds for renovation and rehabilitation projects are obligated by the terms of the grant agreement to continually maintain the site or facility for public recreation use regardless of the percent of UPARR funds expended relative to the project and the facility as a whole. This provision is contained in the UPARR Program Administrtion Guideline (NPS-37) and is also referenced in § 72.36. In accordance with section 1010 of the UPARR Act, no property improved or developed with UPARR assistance shall, without the approval of NPS, be converted to other than public recreation uses. A conversion will only be approved if it is found to be in accord with the current local part and recreation Recovery Action Program and/or equivalent recreation plans and only upon such conditions as deemed necessary to assure the provision of adequate recreation properties and opportunities of reasonably equivalent location and usefulness. Section 1010 is designed to ensure that areas or facilities receiving UPARR grant assistance are continually maintained in recreation use and available to the general public.

(b) *Prerequisites for conversion approval.* Requests for permission to convert UPARR assisted properties in whole or in part to other than public recreation uses must be submitted by the recipient to the NPS Regional Director in writing. NPS will only consider conversion requests if the following prerequisites have been met:

(1) All practical alternatives to the proposed conversion have been evaluated.

(2) The proposed conversion and substitution are in accord with the current Recovery Action Program and/or equivalent recreation plans.

(3) The conversion is deemed necessary to assure the provision of adequate recreation properties and opportunities of reasonably equivalent usefulness and location. Dependent upon the situation and at the discretion of NPS, the replacement property need not provide identical recreation experiences or be located at the same site, provided it is in a reasonably equivalent location. It must, however, be administered by the same political jurisdiction as the converted property. Equivalent usefulness and location will be determined based on the following criteria:

(i) Property to be converted must be evaluated in order to determine what recreation needs are being fulfilled by the facilities which exist and the types of recreation opportunities available. The property being proposed for substitution must then be evaluated in a similar manner to determine if it will meet recreation needs which are at least like in magnitude and impact to the user community as the converted site.

(ii) Replacement property need not necessarily be directly adjacent to or close by the converted site. This policy provides the administrative flexibility to determine location recognizing that the property should meet existing public recreation need. While generally this will involve the selection of a site serving the same community(ies) or area as the converted site, there may be exceptions. For example, if property being converted is in an area undergoing major demographic change and the area has no existing or anticipated future need for recreation facilities, then the project sponsor should seek to locate the substitute area in another location within the jurisdiction.

(4) In the case of assisted sites which are partially rather than wholly converted, the impact of the converted portion on the remainder shall be considered. If such a conversion is approved, the unconverted area must remain recreationally viable or be replaced as well.

(5) The guidelines for environmental evaluation have been satisfactorily completed and considered by NPS during its review of the proposed 1010 action. In cases where the proposed conversion arises from another Federal action, final review of the proposal shall not occur until NPS is assured that all environmental review requirements related to that other action have been met.

(6) State intergovernmental clearinghouse review procedures have been adhered to if the proposed conversion and substitution constitute significant changes to the original grant.

(c) *Amendments for conversion.* All conversions require amendments to the original grant agreement. Amendments should be submitted concurrently with conversion requests and identify the current and new boundaries. Section 1010 project boundary maps must also be submitted at this time to identify the changes to the original area caused by the proposed conversion and to establish a new project area pursuant to the substitution. Once the conversion has been approved, replacement property should be immediately acquired. Exceptions to this rule would occur only when it is not possible for replacement property to be identified prior to the request for the conversion. It will, however, be NPS policy to avoid such a situation if at all possible and to agree only if warranted by exceptional circumstances. In such cases, express commitment to satisfy Section 1010 substitution requirements within a specified period, normally not to exceed one year following conversion approval, must be received from the local government agency in the form of a grant amendment.

(d) *Obsolete facilities.* Recipients are not required to continue operation of a particular facility beyond its useful life. However, discontinuance of a facility requires either the substitution of another approved UPARR-eligible facility at the same site or NPS approval of a conversion. Requests regarding changes from a UPARR funded facility to another otherwise eligible facility at the same site that contravene the orignal plans for the area must be made in writing to the Regional Director prior to the occurrence of the change. NPS approval is not necessarily required, however, for each and every facility use change. Rather, a project area should be viewed in the context of an overall use and should be monitored in this context. A change from UPARR-developed tennis courts to basketball courts, for example, would not require NPS approval. A change from a swimming pool to a less intense area of limited development such as picnic facilities, or vice versa, would, however, require NPS review and approval. A primary NPS consideration in the review of requests for changes in use will be the

consistency of the proposal with the Recovery Action Program and/or equivalent recreaton plans. Changes to other than public recreation use require NPS approval and the substitution of replacement land in accordance with section 1010 of the UPARR Act and paragraphs (a) through (c) of this section.

§ 72.73 Residency requirements.

(a) *Background.* UPARR policy prohibits discrimination on the basis of residence (refer to § 72.65(b)) including preferential reservation or membership systems on properties improved with UPARR assistance. This prohibition applies to both regularly scheduled and special events.

(b) *Policy.* There shall be no discrimination for UPARR assisted programs or services on the basis of residence, except in reasonable fee differentials. Post-completion compliance responsibilities of the recipient should continue to ensure that discrimination on the basis of residency is not occurring.

(c) *Fees.* For parks or recreation properties or programs funded with UPARR assistance, fees charged to nonresidents cannot exceed twice that charged to residents. Where there is no charge for residents but a fee is charged to nonresidents, the nonresident fees cannot exceed fees charged at comparable State or local public facilities having fee systems. These fee provisions apply only to the recreation properties or programs described in the grant agreement. Reservation, membership, or annual permit systems available to residents must also be available to nonresidents and the period of availablity must be the same for both residents and nonresidents.

Dated: May 4, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-13049 Filed 6-9-86; 8:45 am]

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H.J. Res. 636 / Pub. L. 332

Designating June 26, 1986, as "National Interstate Highway Day." (June 5, 1986; 100 Stat. 511; 1 page) Price: $1.00

S.J. Res. 344 / Pub. L. 99-333

To designate the week beginning June 8, 1986, as "National Children's Accident Prevention Week" (June 5, 1986; 100 Stat. 512; 1 page) Price: $1.00

S. 2179 / Pub. L. 99-334

To amend the Communications Act of 1934 to provide for reduction in the term of office members of the Federal Communications Commission, and for other purposes. (June 6, 1986; 100 Stat. 513; 1 page) Price: $1.00

H.R. 2672 / Pub. L. 99-335

Federal Employees' Retirement System Act of 1986 (June 6, 1986; 100 Stat. 514; 119 pages) Price: $3.25