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Tuesday
January 13, 1987

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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: January 29; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Mildred Isler 202-523-3517

PORTLAND, OR

WHEN: February 17 at 9 am.

WHERE: Bonneville Power Administration Auditorium, 1002 N.E. Holladay Street, Portland, OR.

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

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

LOS ANGELES, CA

WHEN: February 18; at 1:30 pm.

WHERE: Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, CA.

RESERVATIONS: Call the Los Angeles Federal Information Center, 213-894-3800

SAN DIEGO, CA

WHEN: February 20; at 9 am.

WHERE: Room 2S31, Federal Building, 880 Front Street, San Diego, CA.

RESERVATIONS: Call the San Diego Federal Information Center, 619-293-6030

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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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Ch. XIV

Regional Office; Address Change; Corrections

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Correction to final rule.

SUMMARY: This document corrects documents which were published in the **Federal Register** on January 25, 1982, at Vol. 47, No. 16 and on September 15, 1986, at Vol. 51, No. 178.

FOR FURTHER INFORMATION CONTACT: Nancy Anderson Speight, Deputy to the Assistant General Counsel (202) 382-0811.

SUPPLEMENTARY INFORMATION: On page 3343 of the January 25, 1982 issue of the **Federal Register**, Vol. 47, No. 16, in the amendment of Appendix A to 5 CFR Chapter XIV, the Regional Office designation of Kansas City should have read Denver in all places where it appears in the column under paragraph (f) which lists the regional office jurisdictions for states and localities.

On page 32623 of the September 15, 1986 issue of the **Federal Register**, Vol. 51, No. 178, in the amendment to Appendix A to 5 CFR Chapter XIV, paragraph (d)(7) should have read (d)(1).

(5 U.S.C. 7134)

Dated: January 8, 1987.

David L. Feder,

Assistant General Counsel Federal Labor Relations Authority.

[FR Doc. 87-711 Filed 1-12-87; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 911

Limes Grown in Florida; Amendment to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule permits lime handlers to make export shipments in 4 kilogram containers. Competition from foreign shippers using similar sizes in European markets has made this container necessary. Adoption of this container will allow U.S. shippers to compete more favorably in certain European markets.

EFFECTIVE DATE: January 13, 1987.

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

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

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

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

The production area of Marketing Order No. 911 consists of all of the State of Florida except the area west of the Suwannee River. Production for the 1985-86 season totaled about 64,000 tons or 2.3 million bushels, of which 39,000 tons or 1.4 million bushels went to fresh market. The remaining 25,000 tons were processed for juice. Total production value was $21 million. It is estimated that 26 handlers of Florida limes under the marketing order for limes grown in Florida will be subject to regulation during the course of the current season. In addition, there are approximately 263 growers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. Based on the production value of $21 million, the average annual gross revenues per producer were less than $80,000 for the 1985-86 season. Therefore, it appears that the majority of these firms may be classified as small entities.

This rule adds a new size container for export shipments of limes grown in the production area. A 4 kilogram container is added to the list of containers presently permitted for shipments of limes. Permitting handlers to use the new size for export shipments will help handlers remain competitive with shippers from other countries who use the same size containers. It is the Department's view that adding an additional container size for export shipments will not increase costs for lime handlers and that this action will have no significant economic impact on a substantial number of small entities.

The proposed rule was published in the October 20, 1986, **Federal Register** (51 FR 37192) affording interested persons until November 19, 1986, to file written comments. None were received.

Marketing Order No. 911 regulates the handling of limes grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Lime Administrative Committee, established under the order, is responsible for its local administration.

At a public meeting on May 14, 1986, the committee recommended adding a new container to be used only for export shipments. The new container will have inside dimensions of 7¾ by 11 by 5⅞ inches and contain 4 kilograms (between 8 and 9 pounds) of limes. Foreign shippers, notably those from Brazil, tend to adjust or change container sizes as the market price of limes changes. This can place U.S.

shippers at a competitive disadvantage if they cannot use a container similar to those used by other shippers. The addition of the 4 kilogram container will make it easier for U.S. exporters to compete in certain European markets with shippers from other lime producing areas using the 4 kilogram container.

Since publication of Part 911 in Title 7 of the January 1, 1986, issue of the Code of Federal Regulations, § 911.329 of the regulations has been amended at 51 FR 27517 (August 1, 1986) and 51 FR 32924 (September 17, 1986).

It is hereby found and determined that the following amendment, as hereinafter set forth, will tend to effectuate the declared policy of the act. It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that limes are currently being shipped and to maximize benefits to producers and handlers this regulation should apply to as many shipments as possible. Compliance with this amendment will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date.

List of Subjects in 7 CFR Part 911

Marketing agreements and orders, Limes, Florida.

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR Part 911 continues to read as follows:

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

2. Section 911.329 is hereby amended by adding a new (a)(2)(ix) as follows:

§ 911.329 Lime regulation 27.

(a) * * *

(2) * * *

(ix) Containers with inside dimensions of 7¾ by 11 by 5⅞ inches; except that any such container shall contain not less than 8 nor more than 9 pounds new weight of limes and shall be for export shipments only.

* * * * *

Dated: January 7, 1987.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-597 Filed 1-12-87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Temporary Revision of Diversion Limitation Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily relaxes for the months of January through March 1987 the limit on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the Nebraska-Western Iowa order. The revision is made in response to a request by a cooperative association representing a substantial number of producers supplying the market in order to prevent uneconomic movements of milk.

EFFECTIVE DATE: January 13, 1987.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Temporary Revision of Diversion Limitation Percentage: Issued December 11, 1986; published December 16, 1986 (51 FR 44993).

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

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1065.13(d)(4) of the Nebraska-Western Iowa order.

Notice of proposed rulemaking was published in the **Federal Register** (51 FR 28721) concerning a proposed increase in the amount of milk that may be moved directly from producer farms to nonpool manufacturing plants for the months of January through March 1987. The public was afforded the opportunity to comment on the proposed notice by submitting written data, views and arguments by December 23, 1986.

Statement of Consideration

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found and determined that the diversion limitation percentage set forth in § 1065.13(d) should be increased from the present 40 percent to 50 percent for the months of January through March 1987. The order's diversion limits were revised temporarily from 40 to 60 percent for the months of September 1985 through March 1986, from 50 to 60 percent for the months of May through August 1986, and from 40 to 60 percent for the months of September through December 1986.

Pursuant to the provisions of § 1065.13(d), the diversion limitation percentages set forth in § 1065.13(d)(2) and (3), respectively, may be increased or decreased up to 20 percentage points during any month. Such changes may be made to encourage additional needed milk shipments to pool distributing plants or to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Associated Milk Producers, Inc. (AMPI), a cooperative association which represents producers supplying the Nebraska-Western Iowa market, requested that for the months of January through March 1987, the percentage of allowable diversions be increased 15 percentage points.

The basis of the cooperative's request is that for the period in question, the order provisions require more milk to move through pool plants than is necessary to meet the fluid, or bottling, requirements of the market. AMPI stated that producer milk pooled under the order during the months of August through October 1986 decreased only slightly from the same period in 1985, while the percentage of producer milk used in Class I increased from 38 percent to 40 percent. AMPI believes that milk production will decline somewhat as a result of the Dairy Termination Program, but that production will not decline substantially enough in early 1987 to justify a requirement that 60 percent of all producer milk pooled under the order be delivered to pool plants. The cooperative believes that most of the impact of the Dairy Termination Program will already have occurred by January 1987, and that production

decreases thereafter will be insignificant. The cooperative therefore expects to have a surplus of milk to dispose of in the months of January through March 1987.

According to the association, the milk surplus to the fluid needs of the market must go to manufacturing facilities. For the purposes of preserving milk quality by requiring less pumping and allowing milk to be moved in the most efficient manner possible, the cooperative stated the most desirable way of handling the additional milk is to ship it directly to nonpool plants. AMPI expressed the belief that the proposed temporary increase in diversion limits will have no effect on the ability of distributing plants to obtain needed supplies of milk for Class I use, and will prevent uneconomic shipments merely for the purpose of assuring that dairy farmers historically associated with the market will contine to have their milk priced under the order.

Comments opposing the temporary revision were received from Mid-America Dairymen, Inc. (Mid-Am), a cooperative association representing a substantial number of producers on the Nebraska-Western Iowa market. Mid-Am opposed the temporary revision of diversion limits on the basis that the amounts of producer milk pooled under the order during the months of September, October and November 1986 were 3.8 percent, 7.1 percent and 6.0 percent less than the volumes pooled during the same months of 1985. Because of this apparent turn-around in the trend of steadily increasing milk production, the cooperative advocated denying AMPI's request to revise the order's diversion limits temporarily. Mid-Am argued further that the percentage of milk production scheduled to be removed from the market under the Dairy Termination Program from the states of Iowa, Nebraska and South Dakota during 1987 represents over 25 percent of the cows included under the Program in these states. According to Mid-Am, the effect of the Dairy Termination Program will be a decline in milk production well below year-earlier levels. The cooperative stated that relaxing the order's diversion limits to the extent requested by AMPI would make Nebraska-Western Iowa producer milk unavailable to meet the fluid requirements of Nebraska-Western Iowa distributing plants.

Although market statistics and Mid-Am's comments would make it difficult to justify relaxing the order's diversion limits by 15 percentage points, as requested by AMPI, it appears that some relaxation of those limits would be appropriate. The percentage of producer milk used in Class I in the Nebraska-Western Iowa market during January, February and March of 1986 averaged slightly below 40 percent. Milk production would have to decline considerably in the first three months of 1987 to justify a requirement that 60 percent of all producer milk pooled under the order be delivered to pool plants. From the data supplied by both AMPI and Mid-Am, and from other market statistics, it appears that a reasonable limit on diversions of producer milk to nonpool plants for the period in question would be 50 percent of the producer milk pooled by a handler.

Without the temporary revision, milk of some dairy farmers would first have to be received at a pool plant to qualify it for pooling rather than being shipped directly from the farm to nonpool manufacturing plants for surplus use. The order's present diversion limits would result in costly and inefficient movements of milk. It is concluded that the relaxation of the diversion limits by 10 percentage points for the months of January through March 1987 will prevent uneconomic movements of milk through pool plants merely for the purpose of qualifying it as producer milk under the order, but will assure that an adequate supply of milk will be available to pool distributing plants.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of January through March 1987;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective upon publication of this notice in the **Federal Register**.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, that in paragraphs (d)(2) and (3) § 1065.13, the provision "40 percent" is revised to "50 percent" for the months of January through March 1987.

The authority citation for 7 CFR Part 1065 continues to read as follows:

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

Effective date: January 13, 1987.

Signed at Washington, DC, January 8, 1987.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 87–695 Filed 1–12–87; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1421

Special Producer Storage Loan Program

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends 7 CFR Part 1421 with respect to the maturity of Special Producer Storage Loans. Currently, such loans mature after 12 months unless the Secretary of Agriculture determines that such loans will be extended for an additional 12 month period. This interim rule provides that Special Producer Storage Loan agreements may be extended for a period as determined and announced by the Secretary.

DATES: This interim rule shall become effective on January 13, 1987. Comments must be received on or before February 12, 1987, in order to be assured of consideration.

ADDRESS: Interested persons are invited to submit written comments to: Director, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, Phone: (202) 447–7641.

FOR FURTHER INFORMATION CONTACT: Harold Connor, Agricultural Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, P.O. Box 2415, Washington, DC, Telephone: (202) 447–8223.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulation 1512–1 and Executive Order 12291 and has been classified "not major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) Major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) Significant adverse effects

on competition, employment, investment, productivity, innovation, or on the ability of U.S. 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 interim rule applies are: Title—Commodity Loans and Purchases; Number—10.051, as found in the catalog of Federal Domestic Assistance.

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

It has been determined by an environmental evaluation that this action will not have any significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

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).

Need for Immediate Action

Grain reserve loans are maturing monthly and Special Producer Storage Loans will be maturing in January, 1987. Due to the need for prompt action it has been determined that prior notice and opportunity for public comment on the subject matter of this rule is impracticable and contrary to the public interest. Therefore, this interim rule shall become effective on January 13, 1987. However, comments with respect to this regulation are requested and must be received on or before February 12, 1987, in order to be assured of consideration. This interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Interim Rule

7 CFR 1421 sets forth the regulations which govern the Special Producer Storage Loan Program. Under this program, CCC enters into an agreement with producers who have maturing Farmer-owned Reserve (FOR) Loans. Producers with FOR loans will have utilized the entire period of their reserve loan agreement which is available for the commodity. Normally, producers with matured FOR loans would be required to redeem the loan collateral or forfeit the collateral to CCC in full satisfaction of the loan obligation. However, under the Special Producer Storage Loan Program, producers have the opportunity to pledge the collateral securing a FOR loan as collateral for a new loan. Special Producer Storage Loan agreements mature after 12 months, unless such agreements are extended for an additional 12 months by the Secretary. In order to provide greater flexibility in administering this program, it has been determined that the extension period should not be limited to a 12-month period. By allowing the Secretary to extend these loan agreements for a period that the Secretary determines to be appropriate, CCC will be able to react to existing market conditions in a more responsive manner. Therefore, this interim rule amends § 1421.902 to provide that a Special Producer Storage Loan Agreement may be extended as determined and announced by the Secretary.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Price support programs, Surety bonds, Warehouses.

Interim Rule

Accordingly, the regulations at 7 CFR Part 1421 are amended as follows:

1. The authority citation for 7 CFR Part 1421, Subpart-Regulations governing the Special Producer Storage Loan Program is revised to read as follows:

Authority: Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 62 Stat. 1070, as amended, 1072 (15 U.S.C. 714b and 714c).

2. Section 1421.902 is revised to read as follows:

§ 1421.902 Length of Special Producer Storage Loan Agreements.

The initial loan agreement shall be for a 12-month period. The loan agreement may be extended as determined and announced by the Secretary.

Signed at Washington, DC, on January 7, 1987.

Ralph D. Klopfenstein,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87-698 Filed 1-12-87; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Parts 50 and 77

[Docket No. 86-118]

Bovine Tuberculosis Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the tuberculosis indemnity regulations to allow the payment of indemnity for certain exposed cattle under two years of age on the island of Molokai, Hawaii, that are to be moved to quarantined feedlots prior to destruction. This action is necessary to help eliminate foci of tuberculosis infection in cattle on the island of Molokai, Hawaii.

EFFECTIVE DATE: January 13, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Mitchell Essey, Program Planning Staff, VS, APHIS, USDA, Room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5961.

SUPPLEMENTARY INFORMATION:

Background

The interim rule published September 23, 1986 (51 FR 33733-33736), was effective on the date of publication in the **Federal Register**, and comments were solicited for 60 days ending November 24, 1986. No comments were received. The facts presented in the interim rule still provide a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined not to be a "major rule." Based on information compiled by the Department, we have determined that this rule will not have an effect on the economy of more than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. It appears that most of the entities that will be affected by this action would be classified as small entities. It is anticipated that the owners of most cattle on Molokai will be indemnified up

to the appraised value of their cattle. Further, it is anticipated that the rule will affect less than one percent of the cattle in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects

9 CFR Part 50

Animal diseases, Cattle, Hogs, Indemnity payments, Tuberculosis.

9 CFR Part 77

Animal diseases, Cattle, Transportation, Tuberculosis.

PART 50—BOVINE TUBERCULOSIS INDEMNITY

PART 77—TUBERCULOSIS IN CATTLE

Accordingly, the interim rule amending 9 CFR Parts 50 and 77 which was published at 51 FR 33733–33736 on September 23, 1986, is adopted as a final rule without change.

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 115–117, 120, 121, 125, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 8th day of January 1987.

John K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87–697 Filed 1–12–87; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 151

[Docket No. 86–113]

Recognized Breeds and Books of Record

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations on breeds and books of record by adding the Wielkopolskich breed of horses and the Ksiega Stadna Koni Wielkopolskich book of record to the list of "recognized breeds and books of record." The Wielkopolskich breed of horses and the Ksiega Stadna Koni Wielkopolskich book of record qualify for such listing, thereby allowing duty-free entry into the United States of horses which are registered in the book.

EFFECTIVE DATE: January 13, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. William E. Ketter, Regulatory Communications and Compliance Policy Staff, VS, APHIS, USDA, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8565.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 151 (referred to below as the regulations) define a book of record as: "[a] printed book or an approved microfilm record sponsored by a registry association and containing breeding data relative to a large number of registered purebred animals used as a basis for the issuance of pedigree certificates."

The regulations provide that a book of record for a breed of animal must be examined and approved by Veterinary Services before the breed and book of record are eligible to be added to the list contained in the regulations.

The custodian of the book of record for the Wielkopolskich horses has submitted to Veterinary Services a complete copy of the book of record with a copy of all rules and forms affecting the registration of the animals in the book of record. A representative of Veterinary Services has reviewed the material submitted and has determined that both the breed and book of record meet the requirements of the regulations for addition to the list of "recognized breeds and books of record."

A document was published in the **Federal Register** on August 29, 1986 (51 FR 30869–30870), proposing to amend the regulations by adding the Wielkopolskich breed of horses as a recognized breed and by adding as the book of record the Kseiga Stadna Koni Wielkopolskich book issued by the Warm Blood and Full Blood Breeders of the Great Polish Horses, Pulewski 14, 02–152 Warsaw, Poland. The proposal invited the submission of written comments on or before October 28, 1986. One comment was received, and it supported the proposed rule. Based on the rationale set forth in the proposal, the regulations are amended as proposed.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will have no 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.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This amendment to the regulations allows Wielkopolskich horses eligibility for duty-free importation into the United States. It is anticipated that the number of Wielkopolskich horses imported into the United States annually would be less than one percent of the total number of horses imported into the United States annually.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 151

Animals, Animal pedigree, Imports, Purebred animals.

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS

Accordingly, 9 CFR Part 151 is amended as follows:

1. The authority citation for Part 151 is revised to read as follows and the authority citations following the sections are removed:

Authority: 19 U.S.C. 1201, 1202; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 151.9, the chart in paragraph (a) is amended by adding the following after Code 2303 under the heading "Horses":

§ 151.9 Recognized breeds and books of record.

* * * * *

(a) * * *

HORSES

Code	Name of breed	Book of record	By whom published
* * *	* * *	* * *	* * *
2240	Wielkopolskich.	Ksiega Stadna Koni Wielkopolskich.	Warm Blood & Full Blood Breeders of the Great Polish Horses, Pulewski 14, 02-152 Warsaw, Poland.

* * * * *

Done in Washington, DC, this 8th day of January 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87-696 Filed 1-12-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket Number 85-ANE-44; Amdt. 39-5495]

Airworthiness Directives; General Electric Company (GE) CF6-50 and -45 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which incorporates and amends Telegraphic Airworthiness Directive (TAD) T85-25-56 which was previously made effective as to all known U.S. owners and operators of certain GE CF6-50 and -45 engines by individual telegram. The TAD required a one time inspection of the left hand side seventh stage low pressure turbine (LPT) cooling air manifold tube and attachment hardware for distress, and replacement as required, on GE CF6-50 and -45 engines. The TAD was needed to prevent left hand side seventh stage LPT cooling air manifold tube failures which could result in an LPT overtemperature condition and subsequent LPT stage 1 disk rupture. This new AD amends the TAD by adding a requirement for repetitive visual inspection of the left hand side seventh stage LPT cooling air system hardware on GE CF6-50 and -45 engines.

DATES: Effective January 13, 1987. Compliance Schedule—As prescribed in the body of the AD. Incorporation by Reference—Approved by the Director of the Federal Register as of January 13, 1987.

ADDRESSES: The applicable service bulletins (SB) may be obtained from General Electric Company, 1 Neumann Way, Cincinnati, Ohio 45215.

A copy of the SB's is contained in Rule Docket Number 85-ANE-44, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:40 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Blazey, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7090.

SUPPLEMENTARY INFORMATION: On December 20, 1985, TAD Number T85-25-56 was issued and made effective immediately as to all known U.S. owners and operators of certain GE CF6-50 and -45 series engines. The TAD required a one time visual inspection of the left hand side seventh stage LPT cooling air manifold tube and attachment hardware for distress, and replacement as required, on GE CF6-50 and -45 engines. The FAA determined that failure of this cooling air manifold tube was the result of it being loosely secured to the engine via loose, broken, improperly installed, or missing attachment hardware. It was found that a loosely secured tube could enter into an adverse vibratory mode and fail due to low stress high cycle fatigue. It was further determined that failure of this tube could result in an LPT overtemperature condition and subsequent LPT stage 1 disk repture. AD action was then necessary to prevent LPT stage 1 disk rupture due to failure of the left hand side seventh stage LPT cooling air manifold tube.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegram, issued December 20, 1985, to all known U.S. owners and operators of certain GE CF6-50 and -45 series engines.

Additional data gathered by the FAA, since issuance of TAD T85-25-56, has shown the following:

(a) The TAD is insufficient to prevent further loosening and/or breakage of the cooling air manifold tube attachment hardware.

(b) Engineering analyses have failed to predict the time interval required to fail a cooling air manifold tube once its attachment hardware has become loose or broken.

(c) Operators who are repetitively inspecting the left hand side seventh stage LPT cooling air system per GE SB 75-58, dated April 14, 1986, have not experienced a cooling air manifold tube failure.

As a result of the additional data, the FAA has determined that:

(a) The conditions which prompted the issuance of TAD T85-25-56 still exist.

(b) A repetitive inspection of the left hand side seventh stage LPT cooling air system is necessary to prevent cooling air manifold tube failure which could result in an LPT overtemperature condition and subsequent LPT stage 1 disk rupture.

Therefore, this new AD amends TAD T85-25-56 by adding a requirement to repetitively inspect the left hand side seventh stage LPT cooling air system. The new AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD).

General Electric Company: Applies to General Electric Company (GE) CF6–50 and –45 series turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent failure of the left hand side seventh stage low pressure turbine (LPT) cooling air manifold tube, which could result in an LPT overtemperature condition and subsequent LPT stage 1 disk rupture, accomplish the following:

(a) For those engines not in compliance with the requirements of GE Service Bulletin (SB) 75–54, dated July 19, 1985, or paragraph 2.A. or 2.B. of GE SB 75–46, Revision 3, dated June 8, 1982, comply with paragraphs (1) and (2) below:

(1) Accomplish the requirements of paragraphs 2.A.1. and 2.A.2. of GE SB 75–55, dated September 13, 1985, concurrently with the requirements of paragraph 2.A. of GE SB 75–54, or FAA approved equivalents, within 10 flight cycles after the effective date of this AD.

(2) Accomplish the requirements of paragraph 2 of GE SB 75–55 or FAA approved equivalent, within 60 calendar days of complying with paragraph (1) above.

(b) For engines already in compliance with the requirements of GE SB 75–54 or paragraph 2.A. or 2.B. of GE SB 75–46, accomplish the requirements of paragraph 2. of GE SB 75–55 within 60 calendar days after the effective date of this AD.

(c) Replace cracked, broken or ruptured left hand side seventh stage LPT cooling air manifold tube and attachment hardware, found during accomplishment of paragraph (a) or (b) above, before further flight.

(d) Inspect the left hand side seventh stage LPT cooling air manifold tubes and attachment hardware in accordance with the requirements of paragraphs 2.A., 2.B., 2.C. and 2.D.(4)(b) of GE SB 75–58, dated April 14, 1986, or FAA approved equivalent, within the next 250 flight cycles after the effective date of this AD, and thereafter, at intervals not to exceed 250 flight cycles from the last inspection.

(e) Replace or tighten, in accordance with paragraph 2.D of GE SB 75–58, left hand side seventh stage LPT cooling air system hardware found worn, loose, cracked or broken during accomplishment of paragraph (d) above, prior to further flight.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, may adjust the compliance time specified in this AD.

GE SB's 75–54, dated July 19, 1985; 75–46, Revision 3, dated June 8, 1982; 75–55, dated September 13, 1985; and 75–58; dated April 14, 1986, identified and described in this document, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies, upon request, from General Electric Company, 1 Neumann Way, Cincinnati, Ohio 45215. These documents also may be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Rules Docket Number 85–ANE–44, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Paragraphs (a), (b), and (c) of this amendment become effective January 13, 1987, as to all persons except those persons to whom paragraphs (a), (b), and (c) of this amendment were made immediately effective by TAD T85–25–56, issued December 20, 1985. Paragraphs (d) and (e) of this amendment become effective January 13, 1987, as to all persons.

Issued in Burlington, Massachusetts, on December 11, 1986.

Clyde DeHart,

Acting Director, New England Region.

[FR Doc. 87–730 Filed 1–12–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–CE–52–AD; Amendment 39–5507]

Airworthiness Directives; Pilatus Britten-Norman Ltd., Models BN-2, BN-2A and BN-2B Islander Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 83–10–06, Amendment 39–4656, applicable to Pilatus Britten-Norman Ltd., Models BN–2, BN–2A and BN–2B Islander Series airplanes which increases the 50 hours time-in-service (TIS) repetitive inspection interval requirement to 100 hours TIS in light of operational experience since 1981, as stated in Pilatus Britten-Norman Service Bulletin (S/B) No. BN–2/SB.142, Issue 4, dated January 22, 1986.

EFFECTIVE DATE: February 12, 1987.

Compliance: As prescribed in the body of the AD.

ADDRESSES: A copy of Pilatus Britten-Norman Ltd., S/B No. BN–2/SB.142, Issue 4, dated January 22, 1986, applicable to this AD, may be obtained from Pilatus Britten-Norman Ltd., Bembridge, Isle of Wight, England. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. M. Dearing, Aircraft Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. H. Chimerine, FAA ACE–109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: AD 83–10–06, Amendment 39–4656, was issued to prevent structural failure of the elevator trim tabs on Britten-Norman Models BN–2, BN–2A, and BN–2B airplanes. It incorporated Britten-Norman Service Bulletin BN–2/SB.142, Issue 2, which introduced Modification No. NB/M/1117, authorizing the installation of a redesigned tab and permitting a 50 hour time-in-service (TIS) repetitive inspection period. Subsequent to the issuance of this AD, the manufacturer determined that, based upon service experience since 1981, an increase of 50 hours TIS over the previous repetitive inspection interval to 100 hours TIS since last inspection should be allowed on airplanes that have incorporated Modification No. NB/M/1117, on certain Britten-Norman Models BN–2, BN–2A, and BN–2B airplanes. Consequently, Pilatus Britten-Norman issued S/B No. BN–2/SB.142, Issue 4, dated January 22, 1986, which permits the increase in the repetitive inspection interval on applicable airplanes. A proposal to amend Part 39 of the Federal Aviation Regulations to revise AD 83–10–06 requiring incorporation of Britten-Norman Service

Bulletin BN-2/SB.142, Issue 4, was published in the **Federal Register** on August 22, 1986, 51 FR 30072.

The Civil Aviation Authority of the United Kingdom (CAA-UK), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom, classified this latest Pilatus Britten-Norman S/B No. BN-2/SB.142, Issue 4, dated January 22, 1986, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

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

The FAA examined the available information related to the issuance of Pilatus Britten-Norman S/B No. BN-2/SB.142, Issue 4, and the mandatory classification of this service bulletin by the CAA-UK, and concluded that the original condition addressed by Pilatus Britten-Norman S/B No. BN-2/SB.142, Issue 4, dated January 22, 1986, was an unsafe condition that may still exist on other airplanes of this type certificated for operation in the United States which have not incorporated Modification No. NB/M/1117. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to revise AD 83-10-06 on this subject, and allow an increase of the repetitive inspection interval from 50 hours TIS to 100 hours TIS for those airplanes that have incorporated Britten-Norman Modification No. NB/M/1117, and also relaxed the previous AD requirement of the number of repetitive inspections from two to one in 100 hours TIS by a properly rated mechanic, for those airplanes not incorporating Modification No. NB/M/1117.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change. The FAA has determined that compliance with this regulation involves 92 airplanes at negligible annual cost for this relieving action, and that it does not impose any additional burden on any persons. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it is a relieving action which reduces the cost of complying with this AD, and because it involves few, if any, small entities. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES"

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By revising AD 83-10-06, Amendment 39-4656, as follows:

Revise paragraph (a)(1) to read:

Visually inspect, using a 5x power magnifying glass, the elevator trim tab skins, front channel member (spar) and drive ribs for cracks in accordance with the instructions contained in the "inspection" section of Pilatus Britten-Norman Ltd., Service Bulletin (S/B) No. BN-2/SB.142, Issue 4, dated January 22, 1986 (hereinafter referred to as the S/B), or an FAA-approved equivalent.

Revise paragraph (a)(6)(ii) to read:

These inspections are performed at least once each 100 hours time-in-service by a properly rated mechanic.

Revise paragraph (b) to read:

For those airplanes which have incorporated Mod. NB/M/1117, the intervals between repetitive inspections specified in paragraph (a) of this AD may be increased to 100 hours time-in-service (as prescribed in the Airplane Maintenance Schedules (Pub. Ref. MS/1 and MS/4), and with the instructions in the Airplane Maintenance Manual (Pub. Ref. MM/1)).

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

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

This amendment becomes effective on February 12, 1987.

Issued in Kansas City, Missouri, on December 29, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 87-622 Filed 1-12-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 200, 203, 220, and 228

[Docket No. R-87-1189; FR-1927]

Mortgage Insurance—Claims Without Conveyance of Title; Bidding Requirements for Foreclosure Sales

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule authorizes the Secretary to permit mortgagees to submit claims for the payment of mortgage insurance benefits on foreclosed single family properties without conveying title to the foreclosed properties to the Secretary. It also prescribes rules which govern bidding by mortgagees at foreclosure sales. This final rule revises the proposed rule published on January 10, 1985 at 50 FR 1233 and implements section 426 of the Housing and Urban-Rural Recovery Act of 1983. In addition, the rule contains a provision authorizing 100% reimbursement of costs incurred by a foreclosing mortgagee in obtaining a deficiency judgment against a mortgagor, when the mortgagee agrees to a request by the Secretary.

EFFECTIVE DATE: May 13, 1987.

FOR FURTHER INFORMATION CONTACT: Fred W. Pfaender, Director, Single Family Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, Room 9180, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-6672. (This is not a toll-free number.)

SUPPLEMENTARY BACKGROUND: Section 426 of the Housing and Urban-Rural

Recovery Act of 1983 (the 1983 Act) amended section 204(a) of the National Housing Act to authorize the payment of claims for insurance benefits without the conveyance of title to the Secretary. The purpose underlying this statutory amendment is to provide a feasible system whereby foreclosing mortgagees may receive the benefits of mortgage insurance without conveying properties to HUD, thus reducing the number of single family properties which come into the HUD inventory. While HUD's inventory has decreased from a high of 70,000 homes in July 1975 to about 24,230 today, nearly 3,900 properties are added monthly. HUD holds these homes for an average period of five months until they are sold. During this time, vandalism can decrease their value, their poor condition blights neighborhoods, and HUD staff costs, contractor costs, and other holding costs mount steadily. The regulations will help reduce the holding and sales costs which HUD would normally have to bear.

This rule adopts as final the proposed claims without conveyance of title rule. As a result of public comment and HUD's own extensive review of the procedures for claims without conveyance, the final rule contains modifications to the proposed rule that are intended to simplify and clarify the applicability of the rule and the procedures thereunder. In order to clarify the full scope of the rule, the title of the rule has been expanded to include the heading "Bidding Requirements for Foreclosure Sales." The purpose of this change is to emphasize that this rule contains mandatory requirements which govern the manner in which foreclosing mortgagees must bid at foreclosure sales. More detailed discussions of the changes which have been made are set forth below under the headings "Revisions to this Rule" and "Response to Public Comments."

Revisions to This Rule

HUD is making the following revisions and technical modifications to the proposed rule.

1. The proposed rule contained two new sections: Section 203.368—Claims without conveyance option; and § 203.369—Claims without conveyance option—procedure. In order to simplify matters, the final rule combines these two sections into a new § 203.368, captioned "Claims without conveyance procedure."

2. The proposed rule at § 203.368 made the claims without conveyance procedure mandatory for mortgages insured, or for which commitments for insurance were issued, on or after November 30, 1983. The proposed rule was not explicit as to whether the reference to commitment meant a conditional or firm commitment, and the rule did not explicitly take into account the Direct Endorsement program, where commitments are not issued.

In order to further clarify the scope of the claim without conveyance procedure, the final rule at § 203.368(a)(1) provides that the claims without conveyance procedure applies to mortgages which were either insured pursuant to a conditional commitment issued on or after November 30, 1983, or pursuant to an application for mortgage insurance endorsement under the Direct Endorsement program where the property appraisal report was signed by the mortgagee's underwriter on or after November 30, 1983. The final rule is mandatory in its applicability to the bidding procedures at foreclosure sales and to the filing and payment of mortgage insurance claims for all such mortgages. The November 30, 1983 date is the date of enactment of the 1983 Act. It is the Department's position that the use of this date for the mandatory application of this rule is in harmony with the intention of Congress in the 1983 Act and further that this will not adversely affect the interests of mortgagees.

However, the mortgagee may, with respect to mortgages insured pursuant to conditional commitments issued, or property appraisal reports signed by the underwriters of Direct Endorsement mortgagees prior to November 30, 1983, at its election, proceed under the provisions of this rule. This provision was also contained in the proposed rule. However, the proposed rule was not clear as to how a mortgagee with a pre-November 30, 1983 mortgage made the election. The final rule at § 203.368(d) provides that a mortgagee with a pre-November 30, 1983 mortgage elects to proceed under the claim without conveyance procedure by furnishing notice of the pending foreclosure sale.

3. The proposed rule required the mortgagee to enter a bid at the foreclosure sale for a "specified amount" which was to be based on the fair market value of the property, as adjusted by the Commissioner's estimate of costs that would otherwise be incurred by HUD for maintenance, management, holding and ultimate reselling of the property. The rule provided that if the adjusted fair market value exceeded the outstanding indebtedness under the mortgage, the mortgagee would then be required to bid the outstanding indebtedness plus acquisition and foreclosure costs.

In reviewing this procedure, the Department has developed a simpler approach in the final rule. The procedure under the proposed rule, when taken in conjunction with the computation of claims under various scenarios, was extremely complex. The proposed procedure could very well have created disputes between HUD and mortgagees over the proper bid amounts at foreclosure sales in cases in which HUD did not provide the adjusted fair market value to the mortgagee in a timely manner.

The final rule authorizes the Commissioner to elect to cause the property to be appraised in order to determine the fair market value of the property. The Commissioner then provides to the mortgagee the fair market value, less adjustments for holding and resale costs and other expenses that would otherwise be incurred if HUD held the property. This notice of the bid amount is to be provided in writing to the mortgagee not less than five days prior to the date of the foreclosure sale. If this notice is received by the mortgagee in timely fashion, this is the amount which the mortgagee is expected to bid at the foreclosure sale. This bid amount is referred to in the rule as the "Commissioner's adjusted fair market value." In the event the Commissioner fails to provide the mortgagee with the notice of the Commissioner's adjusted fair market value not less than five days prior to the date of the foreclosure sale, the claims without conveyance procedure has no further application. The mortgagee simply bids as it chooses to bid; as a practical matter, the mortgagee will generally bid enough to protect its investment in the property so that it is not outbid by a third party bidder at a price below its investment. However, if the notice is received less than five days prior to the sale, the mortgagee may waive late receipt and follow the claims without conveyance procedure.

The final rule contains a provision at § 203.368(g)(4) that where the mortgagee bids an amount in excess of the Commissioner's adjusted fair market value, the mortgagee is deemed to have elected to retain title to the property. This provision was contained at § 203.368(e) of the proposed rule. It should therefore be clear that where the Commissioner's adjusted fair market value is provided in a timely manner, the mortgagee *must* bid that amount if it wishes to retain the option to convey title to HUD. The Department recognizes that a mortgagee may wish to acquire and retain title to the property and may therefore compete with third party bidders and bid an amount in excess of

the Commissioner's adjusted fair market value. However, it is not consistent with the purpose of this rule to permit such a mortgagee to bid in this manner and then subsequently to decide to convey the property to HUD. The purpose of the rule is to provide reasonable encouragement to mortgagees to acquire and retain the properties, and similar encouragement to third parties to acquire properties, thus reducing HUD's inventory of single family properties. Accordingly, once the mortgagee bids in excess of the Commissioner's adjusted fair market value, it is deemed to have made an election not to make a mortgagee insurance claim with conveyance of title to the Department.

However, the Department understands that there may be special circumstances which justify a mortgage's bid in excess of the Commissioner's adjusted fair market value, and that under such circumstances the mortgagee should not be deprived of its ability to convey to the Commissioner. Thus, it is possible that the mortgagee may be required under state law to bid in excess of the Commissioner's adjusted fair market value, or excusable errors may be made. The Department has therefore included a waiver provision in § 203.368(g)(4) to allow for flexibility in these circumstances.

If the mortgagee bids less than the Commissioner's adjusted fair market value, and is the successful bidder, it can only obtain the insurance benefits by conveying title. In such a case, if the mortgagee decided to retain title or a third party obtains title, the mortgagee would not be able to file a claim.

4. The concept of adjusting the fair market value of the property has been retained in the final rule. It should be noted that section 426 of the 1983 Act explicitly provides for adjustments to fair market value. The adjustments to fair market value are to be determined by the Commissioner, taking into account estimated expenses for the maintenance, management and other costs related to the holding and ultimate resale of the property which would otherwise be incurred if title to the property were conveyed to HUD. The purpose for the adjustment to fair market value is as follows. The Department's objective it to provide a bid price which is low enough so that either (i) the mortgagee as successful bidder will be encouraged to retain title or (ii) a third party bidder will be encouraged to be the high bidder. In either case, the mortgages's claim is paid without conveyance of title to the property to HUD and the property does not enter into HUD's inventory. The lower the bid price, the larger will be the amount of the claim paid by HUD under this rule. Of course, the bid price should not be so low as to adversely affect the insurance funds. The adjustment to fair market value to reflect HUD's holding and resale costs accomplishes this balanced result.

We set forth below two hypothetical examples based upon an assumed unpaid principal balance of $60,000, a fair market value of $40,000 and an adjustment of $4,000. If a claim were paid with the conveyance of the property to HUD, the Department's loss can be approximately calculated as follows:

Unpaid principal balance (claim paid)	[1] $60,000
Plus: Holding and resale costs	4,000
HUD's gross loss	64,000
Minus: Proceeds of sale by HUD at fair market value	40,000
HUD's net loss	24,000

[1] In both of these cases, HUD's loss would also include the sum of the items enumerated in § 203.402 less the items in § 203.403.

In the example above, the amount which the mortgagee should bid under the final rule would be $36,000 (fair market value less adjustments). If the mortgagee or a third party were the successful bidder in the amount of the Commissioner's adjusted fair market value and if a claim were filed without conveyance of title, the loss to HUD would be calculated as follows:

Unpaid principal balance	$60,000
Less: Fair market value less adjustments	36,000
HUD's net loss (claim paid)	[2] 24,000

[2] In both of these cases, HUD's loss would also include the sum of the items enumerated in §203.402 less the items in §203.403.

To the extent that the high bid is higher than the Commissioner's adjusted fair market value, HUD's loss is less than the loss which would be sustained if the property were transferred to HUD.

5. The existing regulations at § 203.382 provide for the cancellation of hazard insurance where the mortgagee conveys title to the Secretary for its mortgage insurance claim. The proposed rule did not include an analogous provision where title to the property is not conveyed and a claim is filed. Section 203.368(i)(6) has been added to correct this omission by providing that the portion of the hazard insurance premium allocable to the period after acquisition of title shall be deducted from the insurance claim otherwise payable.

6. The computation of the claim amount has been clarified under § 203.401. The proposed rule designated the existing text of § 203.401 as paragraph (a), and added a new paragraph (b) for the claims without conveyance procedure. The means of calculating the claim amount was proposed to be done by using the provisions of paragraph (a), as modified by (b). Upon internal review in the Department, it became apparent that the method of computing the claim where title is not conveyed to HUD was ambiguous. Sections 203.401 (a) and (b) of the proposed rule have been revised in conformity with the simplified bidding instructions, and to clarify and simplify the payment provisions.

Section 203.401(a) of the final rule contains the payment provisions for claims where title to the acquired property is conveyed to the Commissioner. Paragraph (a) of § 203.401 is almost identical to the existing § 203.401 which is being revised; the changes are merely to emphasize that paragraph (a) pertains to claims with conveyance of title. Paragraph (b) of the revised § 203.401 contains the formulas for computing claims under varying circumstances where the mortgagee has bid not less than the Commissioner's adjusted fair market value, and title is not conveyed to the Commissioner.

Paragraph (b)(1) authorizes the payment of a claim where the mortgagee, as the winning bidder, retains title to the property. The mortgagee must have bid the Commissioner's adjusted fair market value or an amount in excess thereof. The amount of the bid is deducted from the original principal balance of the mortgage (including advances) which was outstanding as of the date of foreclosure. All applicable items under § 203.402 are added to the difference, and the applicable § 203.403 items are then deducted from this amount. Appropriate adjustments are then made to this amount for any expense items covered by the foreclosure sale. This will prevent situations, if any, where the mortgagee would otherwise receive double compensation, i.e., reimbursement for an expense through the foreclosure sale, and reimbursement through its claim to HUD.

Paragraph (b)(2) applies to the situation where the mortgagee bids an amount not less than the Commissioner's adjusted fair market value, and a third party wins the bid. The claim is computed by subtracting the proceeds of the foreclosure sale which are distributed to the mortgagee

from the original principal balance of the mortgage (plus advances) as of the date of foreclosure. All applicable items under § 203.402 are added to the difference, and the applicable § 203.403 items are then deducted from this amount. Appropriate adjustments are then made to this amount for any expense items included in the proceeds of the foreclosure sale, to avoid double compensation to the mortgagee.

Paragraph (b)(3) provides for the payment of a claim where the mortgagee bids an amount not less than the Commissioner's adjusted fair market value, wins the bid and obtains title, and the mortgagor or another party redeems. The claim is computed by subtracting the amount paid by the redemptor to redeem which is received by the mortgagee from the original principal balance (plus advances) as of the date of foreclosure. All applicable items under § 203.402 are added to the difference, and the applicable § 203.403 items are then deducted from this amount. Appropriate adjustments are then made for any items covered by the amount paid by the redemptor to redeem the property, to avoid double compensation to the mortgagee.

7. A new clause has been added to § 203.402(e) to make it clear that when the mortgagee acquires title and makes a claim without conveyance to title, transfer and recordation taxes which are paid by the mortgagee are includible in the claim.

8. The proposed rule did not provide for the payment of debenture interest on claims without conveyance which are paid in cash. It is the Department's intent to pay debenture interest on claims without conveyance of title. To correct this unintended omission, paragraph (k) of § 203.402 has been revised and divided into two subparagraphs. Subparagraph (k)(1) contains the provisions for the payment of debenture interest when title is conveyed to the Commissioner for the payment of the insurance benefits. The computation for the payment of debenture interest on claims with conveyance of title is the same under this final rule as it has been under the existing rule.

The debenture interest for claims without the conveyance of title is computed in two parts under paragraph (k)(2) of § 203.402. Under the first part of paragraph (k)(2), debenture interest is computed in the amount that would have been earned, as of the date the mortgagee or other party acquires title, on the claim amount as determined under § 203.401(a) which exceeds the amount of the claim being paid in debentures. As a practical matter, single family mortgage insurance claims are presently paid entirely in cash, so the debenture interest would be calculated on the amount of the claim pursuant to § 203.401(a) (the outstanding indebtedness) from the issue date of the debentures as set forth in § 203.410 to the date the mortgagee or other party acquires title.

The second part of paragraph (k)(2) provides for the payment of debenture interest on the amount of the actual claim paid by the Commissioner in cash from the time the mortgagee or other party acquires title, to the date when the claim is paid. As stated previously, under the claims without conveyance procedure, the claim is computed in an amount equal to the difference between the Commissioner's adjusted fair market value and the outstanding indebtedness of the mortgage, including adjustments.

The effect of paragraph (k)(2) is to provide to the mortgagee filing a claim without conveyance the equivalent debenture interest which is provided under the claims with conveyance procedure. Once the mortgagee obtains title to the property and elects to retain it, or once a third party bidder acquires title and the mortgagee receives a distribution from the proceeds of the sale, the mortgagee is considered to have received in effect a partial payment of his claim. Accordingly, during the period from the date of default to the date of acquisition of title, the mortgagee will receive debenture interest in the same amount as would be payable under the claim with conveyance procedure. However, for the period commencing with the acquisition of title and ending on the date HUD pays the claim, debenture interest will be paid only on the amount of the claim actually paid by HUD in cash.

In addition, several technical amendments concerning debentures have been made. Section 203.410(a) has been revised to include the issue date of debentures for claims without conveyance. A correction to § 203.410(a)(3) has also been made by changing an erroneous reference from § 203.341 to § 203.402a.

Section 203.410(c) has also been revised to provide that interest on expenditures incurred under the claims without conveyance procedures will only be paid as of the date the expenses were incurred.

9. Reimbursement of costs of seeking a deficiency judgment. As indicated in the Summary, the Department has added a new provision, § 203.402(o), which permits the Secretary to reimburse mortgagees for 100% of the additional costs of obtaining a deficiency judgment in those cases in which HUD requests that such a judgment be pursued. The Department's policy with respect to deficiency judgments is in a state of transition. HUD does not currently impose any requirement on mortgagees to pursue a deficiency judgment and most mortgagees do not obtain such judgments. This policy has been under a careful review. The Department expects in the near future to publish for comment a proposed rule setting forth a new policy on deficiency judgments.

The new § 203.402(o) represents one step in the direction of implementing a new HUD policy. A few instances have occurred where the Department would want to *request* a foreclosing mortgagee to obtain a deficiency judgment. Under the regulations currently in effect, a mortgagee receives only two-thirds of the costs of foreclosure. It is likely that mortgagees will be reluctant to carry out HUD's requests to obtain deficiency judgments if full reimbursement is not made for the additional cost of obtaining a deficiency judgment. Therefore, as a means of encouraging mortgagees to respond to a request from the Department to obtain a deficiency judgment in selected cases, this final rule provides for 100% reimbursement of the additional costs incurred in obtaining such judgments. Under the policy to be implemented under this rule, mortgagees will be pursuing deficiency judgments only in those selected cases in which HUD has so requested.

10. The addition of a new paragraph (e) to § 203.478 which appeared in the proposed rule has been deleted. Amendments to § 203.473 on May 21, 1984 cover the contents of the proposed § 203.478(e), and thus, this addition is not necessary.

11. Paragraph (a)(9) of § 203.552 has been revised to provide that in cases where the mortgagor reinstates a mortgage in foreclosure, the mortgagee may recoup the cost of an appraisal under § 203.368(e) and the cost of additional advertising under § 203.368(h).

Response to Public Comments

Twelve public comments were received, eight from individual banks or mortgage banking organizations, two from attorneys, one from a national trade association, and one from a HUD field office. Except for the HUD field office, which supported the rule, the commenters all had reservations concerning the workability of the proposal. Two commenters, an attorney and a mortgage company, expressed outright opposition.

These concerns raised by the comments and the responses of the Department are discussed below.

1. Advertising

Section 203.369(b)(4) of the proposed rule provided that upon timely receipt from HUD of the fair market value of the property and the specified amount to be bid, the mortgagee could be required to advertise the upcoming sale in addition to the publication of standard legal notices. The costs of advertising could then be included in the claim for the mortgage insurance benefits.

The preamble to the proposed rule specifically invited public comment on this provision. Seven comments were received, and the following aspects of the question were discussed.

a. The requirement for additional advertising would create administrative burdens for mortgagees and could well lead to delays in foreclosures, adding to final costs. The Veterans Administration has tested this idea and abandoned it as expensive and non-productive.

b. Increased advertising would have minimal, if any, effect on bidding activity. Third party bidders are usually lienholders, realtors or investors. These parties are already well aware of the present methods of advertising. The requirements that bids be paid for by certified funds or cash restricts the number of bidders, not the lack of notice of the sale.

c. Concerns were raised whether additional advertising would be an invasion of privacy to mortgagors still occupying the property at the time of the foreclosure sale.

d. The question was raised whether there would be sufficient time for advertising after the bidding instructions are given by HUD to the mortgagee.

e. It was suggested that HUD should do the advertising instead of the mortgagee. This will assure HUD that the properties receive maximum exposure.

In response to these comments, the Department has decided to make additional advertising of properties optional at HUD's discretion at this time, pending further study of the results of advertising in a pilot initiative. The final rule has been revised at § 203.368(h) to reflect this. HUD may make advertising a mandatory requirement for all foreclosures by separate rulemaking at a later date.

2. Access to the Property

Two commenters emphasized the importance of an accurate appraisal of the property and the need for interior inspections in addition to exterior inspections. In those jurisdictions where mortgagees do not have possessory rights, interior inspections may pose a problem. Unless there are good tax records which can be relied upon, a limited "windshield" review is not sufficient to produce a reliable assessment value.

In response to these comments, the Department anticipates that a majority of mortgagors or other occupants, when approached by a fee appraiser whose identification card indicates that he or she is performing a service for the Federal government, will allow the appraiser access to the interior of the property. In those instances where access is not possible, appraisers will be instructed to use tax records and to review comparable properties to obtain the best estimate of the fair market value.

3. Methods for Determining Adjustments to Fair Market Value

The proposed rule provided that the mortgagee must bid the lesser of: (i) The fair market value of the property, adjusted as determined by the Commissioner, or (ii) the outstanding indebtedness. The adjustment to fair market value refers to a sum which will be deducted from the fair market value to reflect HUD's holding and resale costs. It should be noted that section 426 of the 1983 Act explicitly provides for adjustments to fair market value.

The final rule retains the provisions for the mortgagee to bid the "Commissioner's adjusted fair market value," as discussed in item 3 of "Revisions to this Rule." As stated in the preamble of the proposed rule, the adjustments to fair market value are to be determined by the Commissioner, taking into account estimated expenses for the maintenance, management, and other costs related to the holding and ultimate resale of the property which would otherwise be incurred if the property is acquired by HUD.

The preamble to the proposed rule specifically invited comment on two possible methods HUD had under consideration for determining HUD's holding and resale costs. One method would calculate the amount on an individual property basis by deducting specific line item costs such as the broker's fee, tax liens, and management fees. The other method would be to use a fixed percentage to be deducted from the fair market value. Using this method, the percentage to be deducted would be the average of the allowable cost items in a given region or the use of a fixed percentage on a nationwide basis. Three comments were received on this issue.

Two commenters recommended the first method. One commenter especially noted that in his state commissioner's fees and the amount of work involved may vary greatly from case to case, either more or less from the norm. To allow an average cost in every case could work a hardship on both HUD and the mortgagee.

The third commenter, a trade association, recommended the second method, with HUD deducting from the fair market value a fixed percentage representing the average holding and marketing costs in a given region. This commenter emphasized that if HUD were to evaluate each property individually to determine specific line item costs, the processing time to arrive at the adjusted fair market value amount would lengthen unreasonably.

The Department agrees with the third commenter. While HUD can appreciate the concerns of the two commenters who favored the method of deducting specific line item costs to determine the adjusted fair market value amount, it has been decided that the use of a fixed percentage will be more feasible for the Department. The fixed percentage most likely will be on a local field office jurisdictional basis, since these percentages can reasonably be determined by HUD's property disposition staff.

4. Effect on Housing Markets

Two commenters expressed concern that the use of this new claims procedure, by setting foreclosure sales values at present market value less all selling and carrying costs, will price properties so low that some already depressed local housing markets will be even further depressed.

In response to this issue, it is the Department's opinion that properties foreclosed with HUD insured mortgages do not significantly affect the single-family housing market in any given locality. Further, it is the practice of appraisers not to consider foreclosure sale prices or other forced sale prices in the appraisal of properties. Thus, these procedures would not depress local housing markets.

5. Bid Instructions in Writing; Fixed Time Frame

It was urged that all bid instructions should be provided in writing. Because of concerns that an inadvertent bid in excess of the directed bid amount would negate the mortgagee's right to convey title, two commenters emphasized that every effort should be made to avoid misunderstandings about the bid price. The suggestion was also made that HUD provide an acceptable tolerance for inadvertent bidding errors.

It was further urged that a set time frame within which HUD must provide bidding instructions should be established. It was recommended that HUD be required to provide bidding instructions at least five days before the sale date, and that sales should not be postponed if HUD fails to provide timely bidding instructions. Two commenters added that if HUD did in fact require that sales be postponed because of delays in providing bidding instructions, mortgagees should be compensated for 100% of their additional costs.

The Department is in agreement that the procedure as envisioned under the proposed rule could create misunderstandings between HUD and the mortgagee over the amount the mortgagee is expected to bid at the foreclosure sale. In response to this comment, and as the result of internal review by the Department, the regulations have been modified at § 203.368(e). The final rule provides that *written* notice of the Commissioner's adjusted fair market value must be provided to the mortgagee at least *five days* prior to the sale. If the written notice is not timely received, the mortgagee is free of any HUD bidding requirements, and the provisions of the existing regulations (§§ 203.355–203.367) are applicable instead. In order to file a claim, the mortgagee must be able to convey title to the property to HUD. The mortgagee may waive late receipt of the written notice, however, and elect to follow the claim without conveyance procedure.

A more detailed statement of the operation of this procedure has been set forth under items 3 and 4 under the section of the preamble entitled "Revision To This Rule".

6. Appraisal and Advertising Costs

The commenters stated that appraisal fees and additional advertising cost should be reimbursed 100%. The allowable fees for appraisals and advertising should be published.

HUD did provide in the proposed rule at paragraph (l) and (m) of § 203.402 for 100% reimbursement of appraisal and additional advertising costs. These paragraphs are also contained in the final rule. We do not believe that it is either necessary or feasible for these allowable fees to be published. Allowable fees for appraisals are currently available in all local field offices and vary according to the jurisdiction. HUD will issue limits on advertising costs, based either on a national or local standard, should the Department later revise the rules for this program to require advertising.

7. Errors in Appraisals

The commenters urged that mortgagees should not be held responsible for appraisal errors. The Department's response to this comment is that the mortgagees will not be held responsible for errors in appraisals, since the appraisals will be performed by persons designated by HUD.

8. Decision To Convey or Retain Title

It was pointed out by two commenters that the mortgagee should be given sufficient time after acquisition of title to decide whether to convey title or retain the property. The proposed regulations provided for 30 days. They stated that this time period may not be long enough for mortgagees to weigh accurately the benefits of a non-conveyance claim. It was suggested that sixty days would be a more appropriate time period.

The Department has decided to retain the 30-day time period (§ 203.368(i)(5)). Mortgagees have ample time during and after the foreclosure to decide whether or not to keep the property. Additional time granted to make such a decision would only delay the payment of a claim and increase HUD's costs.

9. Mortgagees Should Not Be Involved in the Appraisal Process

One commenter strongly urged that the HUD field offices be required to order any appraisals directly, without revealing the name of the morgagees or servicer, and to have the appraisal returned solely to the HUD field office. The commenter expressed concerns that the mortgagee would be directly linked to the appraisal process. As a result, the commenter fears that most mortgagees will avoid bidding for properties on their own because of the possibility of being accused of wrongdoing if the appraisals turn out to be improperly low.

In response to these concerns, it should first be noted that if HUD were to order appraisals directly without revealing the name of the mortgagee to the appraiser, HUD would have to pay the appraiser's fee up front. The Department is not in a position to do this. Also, it should be emphasized that the appraisers will be designated by HUD. Thus, the mortgagee will not be directly linked to the appraisal process.

This commenter apparently did not realize that the regulation requires the mortgagee to bid the adjusted fair market value when bidding information is timely received by the mortgagee. Hence, there is no reason for the concern that mortgagees will avoid bidding the adjusted fair market value so as to avoid being accused or wrongdoing.

10. Refund of One-Time Mortgage Insurance Premium

Since the institution of the one-time, up front payment of the FHA mortgage insurance premium (MIP), § 203.283 of the regulations has provided that unearned premiums are refunded to the mortgagor if there is no claim for the insurance benefits. One commenter believes that in situations in which a mortgagor defaults, the mortgagee forecloses but does not file a claim, and the mortgagor receives a refund, such policy is ill-conceived and inequitable, and this rule could be a vehicle for changing it.

The Department's response to this comment is that the current regulation, which allows for a refund of the unearned MIP paid by a mortgagor even if he or she defaults (provided there is no claim for the insurance benefits), was adopted in June 1983. The revision to § 203.283 in conjunction with this rule specifically retains the current provision that the refund shall take place ". . . if a claim for insurance benefits is not presented for payment." If a mortgagee decides to retain title but submits a claim for a part of the insurance benefits, this portion of the rule would not be operative and the mortgagor would not receive a refund of the unearned MIP. It is the Department's opinion that this issue should be dealt with separately and not in conjunction with this rule, because it is not directly related to claims without conveyance of title.

11. Allow More Occupied Conveyances

One commenter supported the elimination of the current HUD policy that property should generally be vacated before title is conveyed to the Department. This action would go a long way, the commenter said, toward ameliorating the vandalism problem with foreclosed homes and would obviate the need for a new claims without conveyance procedure, with the administrative problems and costs such a new procedure would entail.

The Department has no intention of rescinding its current policy, based on regulations, that properties generally must be vacated before conveyance to HUD. No evidence exists that a policy of occupied conveyance would greatly benefit the Department, although it might in some instances prevent vandalism. The advantage of the current policy lie in HUD's avoiding the burden and responsibility of managing a large number of occupied properties and

having to arrange for the eviction of tenants at a later date when the property is eventually sold.

12. Deficiency Judgments

One commenter raised the concern that this rule will cause unacceptable delays in foreclosure proceedings. The rationale given was that once it is known that HUD policy requires a bid at the Commissioner's adjusted fair market value, mortgagors and their attorneys will realize that it is possible for mortgagees to obtain deficiency judgments. With this concern in mind, mortgagors and their attorneys will be motivated to vigorously defend foreclosure actions which otherwise might not be defended at all. This commenter stated that this will lengthen the time to conclude foreclosure proceedings, thus increasing the costs to mortgagees and to HUD.

As already noted, the Department will soon publish a proposed regulation governing deficiency judgments. We will give consideration to this commenter's concern in connection with the issuance of the final regulation.

13. New Procedures Should Be Optional

Two commenters stated that the potential problems of excessive delay and administrative burden under the proposed procedures could be avoided in some jurisdictions if the procedures in this rule were to be followed only at the option of the mortgagee. In response, the Department notes that this commenter may have had an erroneous conception of the operation of this rule. As explained earlier, so long as the mortgagee bids in accordance with the Commissioner's adjusted fair market value, it has the option as to whether it should file a claim with or without conveyance of title to the property to HUD. However, mortgagees are required to follow the bidding instructions when received in a timely manner. Since the mortgagee is not bound by these requirements if the notice from HUD is not received within five days of the foreclosure sale, the Department does not believe there will be any delay or any significant administrative burden on mortgagees.

14. Preemption of state law

One commenter questioned whether the proposed rule at § 203.368(d) regarding state law minimum bid requirements was intended to preempt state law. The Department does not intend to preempt state law with this procedure. The proposed § 203.368(d) has been deleted so the rule does not preempt state law. As already noted, under § 203.368(g)(4) the Commissioner may for good cause waive the provision that mortgagees which bid in excess of the Commissioner's adjusted fair market value are deemed to have elected to retain title and may not file a claim with conveyance of title. Compliance with state law constitutes good cause warranting such a waiver.

15. Date of Closing

One commenter questioned the meaning of the date of closing, contained in the proposed regulation at § 203.369(k) that is to be used in computing the 30-day time frame in which the mortgagee must file its claim. In order to clarify this term, § 203.368(i)(5) of the final rule provides that the mortgagee must file its claim within 30 days after one of the following events: (1) The mortgagee acquires good marketable title, (2) a party other than the mortgagee obtains marketable title, or (3) in redemption states, the mortgagor or another party redeems the property. If unusual circumstances arise, a fourth provision allows the Commissioner to determine the time period.

16. Editorial Comments

One commenter had a number of helpful comments relating to possible ambiguities as the proposed rule was drafted. Some of these comments have been incorporated into the final rule.

Findings and Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

The information collection requirements contained in this rule were submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) and have been assigned OMB control numbers 2535-0093 and 2502-0347.

This rule is listed as sequence number 850 in the Department's Semiannual Agenda of Regulations published on October 27, 1986 [51 FR 38424, 38449] pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The following numbers identify the programs, as listed in the Catalog of Federal Domestic Assistance, which will be affected by this regulation change.

14.105 Interest Reduction—Homes for Lower Income Families
14.108 Rehabilitation Mortgage Insurance
14.117 Mortgage Insurance—Homes
14.118 Mortgage Insurance—Homes for Certified Veterans
14.119 Mortgage Insurance—Homes for Disaster Victims
14.120 Mortgage Insurance—Homes for Low and Moderate Income Families
14.121 Mortgage Insurance—Homes in Outlying Areas
14.122 Mortgage Insurance—Homes in Urban Renewal Areas
14.123 Mortgage Insurance—Housing in Older, Declining Areas
14.132 Mortgage Insurance—Purchase of Sales-Type Cooperative Housing Units
14.133 Mortgage Insurance—Purchase of Units in Condominiums
14.152 Mortgage Insurance—Experimental Homes
14.165 Mortgage Insurance—Homes—Military Impacted Areas
14.166 Mortgage Insurance—Homes for Members of the Armed Forces

Accordingly, 24 CFR Chapter II is amended as set forth below:

PART 200—INTRODUCTION

1. The authority citation for Part 200 continues to read as follows:

Authority: Titles I and II of the National Housing Act (12 U.S.C. 1701 through 1715z-18); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. By revising § 200.155 to read as follows:

§ 200.155 Claim requirements.

(a) In the home mortgage programs, a mortgagee is required, in order to perfect its claim for the payment of the insurance benefits, to: Assign the

mortgage to the Commissioner; or obtain a deed in lieu of foreclosure and convey good marketable title to the property covered by the insured mortgage to the Commissioner; or foreclose the insured mortgage. In connection with the foreclosure of an insured mortgage the mortgagee may either convey good marketable title to the foreclosed property to the Commissioner, or file a claim for the insurance benefits without conveying title to the Commissioner in accordance with § 203.368.

(b) In project mortgage programs, in order to perfect a claim for payment, the mortgagee is required either to assign the project mortgage to the Commissioner, or to foreclose the property covered by the insured mortgage and tender to the Commissioner a good, marketable title. If the mortgagee elects to assign the project mortgage, the claim for insurance is reduced by one percent of the amount of the mortgage.

(The information collection requirements contained in this section were approved by the Office of Management and Budget and assigned control number 2535-0093).

3. By revising § 200.156 by adding the following sentence to the present text:

§ 200.156 Settlement of claims.

* * * In single family programs, payment of claims may be made in cash, debentures, or a combination of both as determined by the Commissioner, and a claim may be paid without the conveyance of title and delivery of possession to the Commissioner pursuant to § 203.368.

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

4. The authority citation for Part 203 is revised to read as follows:

Authority: Secs. 203, 204, and 211, National Housing Act (12 U.S.C. 1709, 1710, 1715(b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); In addition, Subpart C also issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

5. By revising paragraph (a) of § 203.283 to read as follows:

§ 203.283 Refund of one-time MIP.

(a) The Commissioner shall provide for the refund to the mortgagor of a portion of the unearned MIP paid pursuant to § 203.280 if the contract of insurance covering the mortgage is terminated: (1) By coveyance to one other than the Commissioner and a claim for the insurance benefits is not presented for payment (§ 203.315), (2) by prepayment of the mortgage (§ 203.316), or (3) by voluntary agreement with the approval of the Commissioner (§ 203.317).

* * * * *

6. By revising § 203.315 to read as follows:

§ 203.315 Termination by conveyance to other than Commissioner.

(a) For those mortgages to which the provisions of § 203.368 apply, the contract of insurance shall be terminated under the following circumstances:

(1) The mortgagee notifies the Commissioner that it will not convey title to the Commissioner and will not file a claim for the insurance benefits when: (i) The mortgagee either acquires the property by any means, or (ii) acquires the property and gives such notice during the redemption period; or

(2) The mortgagee notifies the Commissioner that it will not file a claim for the insurance benefits when: (i) The property is bid in and acquired at foreclosure by a party other than the mortgagee, or (ii) after foreclosure of the mortgaged property by the mortgagee the property is redeemed.

(b) For those mortgages to which the provisions as set forth in § 203.368 do not apply, the contract of insurance shall be terminated under the following circumstances:

(1) The mortgagee acquires the mortgaged property but does not convey it to the Commissioner;

(2) The property is bid in and acquired at a foreclosure sale by a party other than the mortgagee;

(3) After foreclosure the property is redeemed;

(4) After foreclosure and during the redemption period the mortgagee gives notice that it will not tender the property to the Commissioner.

7. By revising paragraph (a) of § 203.320 to read as follows:

§ 203.320 Notice and date of termination by Commissioner.

* * * * *

(a)(1) For those mortgages to which the provisions of § 203.368 apply, the date foreclosure proceedings were instituted by the mortgagee, or the property was otherwise acquired by the mortgagee or a party other than the mortgagee (including the mortgagor or other party as redemptor) if the mortgagee notifies the Commissioner that title will not be conveyed to the Commissioner and a claim for the insurance benefits will not be presented for payment.

(2) For those mortgages to which the provisions of § 203.368 do not apply, the date foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee, if the mortgagee notifies the Commissioner that title will not be conveyed to the Commissioner.

* * * * *

8. By adding immediately after § 203.367 a new § 203.368 to read as follows:

§ 203.368 Claims without conveyance procedure.

(a)(1) The requirements of this section apply to any insured mortgage subject to this subpart which was either insured pursuant to: (i) A conditional commitment issued on or after November 30, 1983 or, as appropriate, (ii) an application for mortgage insurance endorsement under the Single Family Direct Endorsement Program, as provided in § 203.255(b), where the property appraisal report was signed by the mortgagee's approved underwriter on or after November 30, 1983.

(2) The requirements of this section shall also apply to any other mortgages subject to this subpart where the mortgagee elects to provide the notice to HUD required by paragraph (d) of this section.

(b) Notwithstanding the provisions of paragraph (a) of this section, the requirements of this section do not apply if the mortgaged property has been damaged as set out in § 203.378.

(c) Nothing in this section shall affect any rights or obligations arising under the procedures set forth in Subpart C of this Part.

(d) After initiating proceedings to foreclose an insured mortgage within the coverage of paragraph (a)(1) of this section by judicial, statutory, or other means authorized by the mortgage instrument, the mortgagee shall furnish notice of the foreclosure to the Commissioner, containing such information as shall be prescribed by the Commissioner, together with a copy of the notice of sale, on or before the date of first publication, posting, or other notice. The mortgagee foreclosing an insured mortgage subject to this subpart and within the coverage of paragraph (a)(2) of this section may elect to become subject to this section by providing such notices to the Commissioner in accordance with the preceding sentence.

(e) Where notice of the foreclosure sale is provided pursuant to paragraph (d) of this section, the Commissioner may elect to cause the mortgaged property to be appraised and to give written notice to the mortgagee, not less than five days prior to the date of the foreclosure sale, of the Commissioner's estimate of the fair market value of the

mortgaged property, less adjustments as the Commissioner may deem appropriate (which may include, without limitation, the Commissioner's estimate of holding costs and resale costs that would be incurred if title to the mortgaged property were conveyed to the Commissioner). Such amount is referred to hereafter as the "Commissioner's adjusted fair market value."

(f) If the Commissioner fails to provide notice of the Commissioner's adjusted fair market value to the mortgagee not less than five days prior to the scheduled date of foreclosure sale, this section shall have no further application and §§ 203.355–203.367 shall apply: *Provided,* that a mortgagee which receives the Commissioner's notice at any time prior to the foreclosure sale may waive late receipt by so notifying the Commissioner, in which case this section shall apply.

(g) If the Commissioner provides notice of the Commissioner's adjusted fair market value in accordance with paragraph (e) of this section the following shall be applicable:

(1) The mortgagee shall tender a bid at the foreclosure sale in the amount of the Commissioner's adjusted fair market value.

(2) If the mortgagee acquires title to the mortgaged property pursuant to a bid at foreclosure sale in an amount equal to the Commissioner's adjusted fair market value, the mortgagee may elect to retain title to the property and to file a claim for the insurance benefits computed as provided in § 203.401(b).

(3) If a party other than the mortgagee acquires title to the mortgaged property either pursuant to a bid at foreclosure sale or through the redemption of the property in an amount not less than the Commissioner's adjusted fair market value, the mortgagee may file a claim for the insurance benefits computed as provided in § 203.401(b).

(4) If the mortgagee acquires title to the mortgaged property pursuant to a bid at foreclosure sale in an amount in excess of the Commissioner's adjusted fair market value, the mortgagee is deemed to have elected to retain title to the property and is limited to filing a claim for the insurance benefits computed as provided in § 203.401(b). In the event the mortgagee can show good cause for having bid an amount in excess of the Commissioner's adjusted fair market value, the Commissioner may, at his discretion, waive the provisions of this subparagraph and allow the mortgagee to convey title to the Commissioner and file a claim for the insurance benefits computed as provided in § 203.401(a). A mortgagee which has elected to follow the provisions of this section pursuant to paragraph (a)(2) and bids an amount in excess of the Commissioner's adjusted fair market value shall not be subject to the provisions of this subparagraph, and may elect to retain or convey title in filing a claim for the insurance benefits.

(5) In any other case, the mortgagee may file a claim for insurance benefits only upon conveyance of title to the mortgaged property to the Commissioner.

(h) If the Commissioner provides timely notice of the Commissioner's adjusted fair market value in accordance with subsection (e), the Commissioner may require the mortgagee to advertise the upcoming sale in addition to the standard legal notices which may be required by state law.

(i) Where a mortgagee files a claim for the insurance benefits without conveying title to the property to the Commissioner, as authorized by this section:

(1) Sections 203.358 through 203.367 shall not be applicable.

(2) The mortgagee shall assign to the Commissioner, without recourse or warranty, any or all claims which the mortgagee has acquired in connection with the mortgage transaction and as a result of the foreclosure proceedings or other means by which the mortgagee or party other than the mortgagee acquired such property, except such claims as may have been released with the approval of the Commissioner.

(3) The mortgagee shall forward to the Commissioner:

(i) Fiscal data pertaining to the mortgage transaction;

(ii) The original credit and security instruments, if available, or a deficiency judgment, if any, duly assigned or endorsed by the mortgagee, without recourse, to the Commissioner; and

(iii) Any additional information or data which the Commissioner may require.

(4) The mortgagee shall retain all cash amounts held or deposited for the account of the mortgagor or to which the mortgagee is entitled under the mortgage transaction that have not been applied in reduction of the principal mortgage indebtedness. Cash amounts shall be itemized and deducted from the claim pursuant to § 203.403. Receipts for disbursements are to be retained by the mortgagee and are to be made available upon request by the Commissioner.

(5) The mortgagee shall file its claim:

(i) Within 30 days after the mortgagee acquired good marketable title to the property; or

(ii) Within 30 days after a party other than the mortgagee acquired good marketable title to the property; or

(iii) In redemption States, within 30 days after the mortgagor or another party redeemed the property or the redemption period has expired; or

(iv) Within such other time as may be determined by the Commissioner.

(6) In any case in which the insurance benefits paid include, pursuant to § 203.402(c), hazard insurance premiums paid by the mortgagee, the portion of the hazard insurance premium allocable to the period after acquisition of title by the mortgagee or a third party shall be deducted from the mortgage insurance benefits otherwise payable.

(The information collection requirements contained in this section were approved by the Office of Management and Budget and assigned control number 2502–0347.)

9. By revising § 203.401 to read as follows:

§ 203.401 Amount of payment—conveyed and non-conveyed properties.

(a) *Conveyed properties.* Where a claim for the insurance benefits is filed in accordance with this subpart, based on the conveyance of title to the mortgaged property to the Commissioner, the amount of the insurance benefits shall be computed by adding to the original principal balance of the mortgage (as increased by the amount of open-end advances made by the mortgagee and approved by the Commissioner) which was unpaid on the date of the institution of foreclosure proceedings, on the date of the acquisition of the property otherwise after default, or on the date the property was acquired by the Commissioner under a direct conveyance by the mortgagor, the amount of all payments made by the mortgagee and allowances for items set forth in § 203.402, less all applicable items set forth in § 203.403.

(b) *Claims without conveyance of title.* (1) If the mortgagee acquires title to the mortgaged property pursuant to a bid amount equal to the Commissioner's adjusted fair market value and the mortgagee elects to retain title as provided in § 203.368(g)(2), or if the mortgagee acquires title pursuant to a bid in excess of the Commissioner's adjusted fair market value (see § 203.368(g)(4)), the amount of the insurance benefits shall be determined by deducting the amount bid at the sale from the original principal balance of the mortgage (as increased by the amount of open-end advances made by the mortgagee and approved by the Commissioner) which was unpaid on the date of institution of the foreclosure

proceedings, and adding to the difference, if any, all applicable items set forth in § 203.402 and subtracting therefrom all applicable items set forth in § 203.403; provided however, that appropriate adjustment shall be made for any such items covered by proceeds of the foreclosure sale.

(2) If a party other than the mortgagee acquires title to the mortgaged property pursuant to a bid at foreclosure sale not less in amount than the Commissioner's adjusted fair market value, the amount of the insurance benefits shall be determined by deducting the proceeds of the foreclosure sale distributed to the mortgagee from the original principal balance of the mortgage (as increased by the amount of open-end advances made by the mortgagee and approved by the Commissioner) which was unpaid on the date of the foreclosure proceedings, and adding to the difference, if any, all applicable items set forth in § 203.402 and subtracting therefrom all applicable items set forth in § 203.403; provided, however, that appropriate adjustment shall be made for any such items covered by the proceeds of the foreclosure sale.

(3) If the mortgagee acquires title to the mortgaged property pursuant to a bid not less in amount than the Commissioner's adjusted fair market value, and the mortgagor or another party redeems the property, the amount of the insurance benefits shall be determined by deducting the amount paid to redeem the property and received by the mortgagee from the original principal balance of that mortgage (as increased by the amount of open-end advances made by the mortgagee and approved by the Commissioner) which was unpaid on the date of the institution of foreclosure proceedings, and adding to the difference, if any, all applicable items set forth in § 203.402 and subtracting therefrom all applicable items set forth in § 203.403; provided however, that appropriate adjustments shall be made for any such items covered by that amount paid by the mortgagor or other party to redeem the property.

10. By revising the heading and introductory language of § 203.402, revising paragraphs (e) and (k), and by adding new paragraphs (l), (m), (n) and (o) to read as follows:

§ 203.402 Items included in payment—conveyed and non-conveyed properties.

The insurance benefits paid in connection with foreclosed properties, whether or not conveyed to the Commissioner, and those properties conveyed to the Commissioner as a result of a deed in lieu of foreclosure, shall include the following items:

* * * * *

(e) Taxes imposed upon any deeds or other instruments by which said property was acquired by the mortgagee and transferred or conveyed to the Commissioner, or was acquired by the mortgagee and retained pursuant to § 203.368;

* * * * *

(k)(1) For properties conveyed to the Commissioner, an amount equivalent to the debenture interest which would have been earned, as of the date such payment is made, on the portion of the insurance benefits paid in cash, if such portion had been paid in debentures, except that when the mortgagee fails to meet any one of the applicable requirements of §§ 203.355, 203.356, 203.359, 203.360 and 203.365 of this chapter within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the interest allowance in such cash payment shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(2) Where a claim for insurance benefits is being paid without conveyance of title to the Commissioner in accordance with § 203.368, an amount equivalent to the sum of:

(i) The debenture interest which would have been earned, as of the date the mortgagee or a party other than the mortgagee acquires good marketable title to the mortgaged property, on an amount equal to the amount by which an insurance claim determined in accordance with §203.401(a) exceeds the amount of the actual claim being paid in debentures; plus

(ii) The debenture interest which would have been earned, from the date the mortgagee or a party other than the mortgagee acquires good marketable title to the mortgaged property to the date when payment of the claim is made, on the portion of the insurance benefits paid in cash if such portion had been paid in debentures, except that if the mortgagee fails to meet any of the applicable requirements of §§ 203.355, 203.356, 203.368(i) (3) and (5) of this chapter within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the interest allowance in such cash payment shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(l) Costs of appraisal under 203.368(e).

(m) Costs of additional advertising under 203.368(h).

(n) Costs of foreclosure as computed in paragraph (f) of this section where the acquiring party is one other than the mortgagee, as provided in § 203.368.

(o) In any case in which the mortgagee has sought a deficiency judgment pursuant to a request by the Commissioner, an amount to fully reimburse the mortgagee for those additional costs incurred that exceed the costs of foreclosure. In those jurisdictions that require the initiation of a judicial foreclosure action in order to obtain a deficiency judgment, a mortgagee shall receive full reimbursement for the costs of the foreclosure action, where, but for the requested deficiency judgment, judicial foreclosure would not have been necessary.

11. By revising the heading of § 203.403 to read as follows:

§ 203.403 Items deducted from payment—conveyed and nonconveyed properties.

12. By revising the introductory text of paragraphs (a), (a)(3), (a) and (c) of § 203.410 to read as follows:

§ 203.410 Issue date of debentures.

(a) Conveyed properties and claims without conveyance—Where the property is conveyed to the Commissioner, or the mortgagee or other party acquires title to the property under the claim without conveyance procedure, debentures shall be dated:

* * * * *

(3) As of the applicable date specified in paragraph (a)(1) of this section, if the insurance settlement includes an allowance for uncollected interest pursuant to § 203.402a

* * * * *

(c) Notwithstanding paragraph (a) of this section, in connection with conveyed properties and claims without conveyance, debentures issued as reimbursement for expenditures made by a mortgagee after the date of default shall be dated as of the date the expenditure is actually made by the mortgagee.

13. By revising paragraph (a) of § 203.423 to read as follows:

§ 203.423 Distribution of distributive shares.

(a) The Commissioner may provide for the distribution to the mortgagor of a share of the participating reserve account:

(1) If the contract of insurance is terminated by conveyance to one other than the Commissioner and a claim for

the insurance benefits is not presented by the mortgagee (§ 203.315);

(2) By the prepayment of the mortgage (§ 203.316); or

(3) By the voluntary agreement of the mortgagor and mortgagee (§ 203.317).

* * * * *

14. By revising paragraph (a)(9) of § 203.552 to read as follows:

§ 203.552 Fees and charges after endorsement.

(a) * * *

(9) Attorney's and trustee's fees and expenses actually incurred (including the cost of appraisals pursuant to § 203.368(e) and cost of advertising pursuant to § 203.368(h)) when a case has been referred for foreclosure in accordance with the provisions of this part after a firm decision to foreclose if foreclosure is not completed because of a reinstatement of the account. (No attorney's fee may be charged for the services of the mortgagee's or servicer's staff attorney or for the services of a collection attorney other than the attorney handling the foreclosure.)

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

15. The authority citation for Part 220 continues to read as follows:

Authority: Secs. 207, 211, and 220, National Housing Act (12 U.S.C. 1713, 1715b, 1715k); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

16. By revising § 220.350 to read as follows:

§ 220.350 Cross-reference.

(a) All of the provisions of §§ 203.440 through 203.495 of this chapter covering insured home improvement loans under section 203(k) of the Act shall apply to home improvement loans on one-to-four family dwellings under section 220(h) of the Act, except as set out in paragraph (b).

(b) The provisions of §§ 203.473(a) shall not be applicable to home improvement loans on one-to-four family dwellings under section 220(h) of the Act.

PART 228—INDIVIDUAL RESIDENCES; NATIONAL DEFENSE HOUSING MORTGAGE INSURANCE [SEC. 903]

17. The authority citation for 24 CFR Part 228 is revised to read as set forth below and any authority citation following any section in Part 228 is removed:

Authority: Sections 903, 907, National Housing Act (12 U.S.C. 1750b, 1750f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

18. By revising the heading and introductory language to § 228.290 to read as follows:

§ 228.290 Insurance benefits—conveyed and non-conveyed properties—foreclosure costs.

All the provisions of § 203.402 of this chapter shall govern the computation of the items included in insurance benefits for conveyed and non-conveyed properties, except that in lieu of the allowance for foreclosure costs or for the costs of otherwise acquiring the property provided for in paragraph (f) of § 203.402 for conveyed properties or in paragraphs (f) and (n) of § 203.402 for non-conveyed properties, there shall be included on account of such costs, in those cases involving mortgages on which the unpaid principal obligation at the time of the institution of foreclosure exceeds 80 percent of the appraised value of the property as the date the mortgage was accepted for insurance, an amount not in excess of the greater of the following:

* * * * *

Dated: December 31, 1986.

Thomas T. Demery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 87-552 Filed 1-12-87; 8:45 am]

BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42067B; FRL-3142-1]

Bisphenol A; Final Test Rule; Technical Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical modification.

SUMMARY: EPA has approved minor modifications of the test standards for the Bisphenol A (BPA) test rule at 40 CFR 799.940 in response to a request from the test sponsors.

EFFECTIVE DATE: January 13, 1987.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Subtances, Environmental Protection Agency, Rm. E-543, 401 M St. SW., Washington, DC 20460, (202) 554-1404,

SUPPLEMENTARY INFORMATION: EPA is publishing minor modifications of the test standards for the Bisphenol A test rule at 40 CFR 799.940.

I. Test Standard Modifications

EPA published a final test rule for BPA in the **Federal Register** of September 18, 1986 (51 FR 33047). On October 30, 1986, the Dow Chemical Company (Ref. 1) and on November 3, 1986, the Bisphenol A Technical Committee of the Society of the Plastics Industry, Inc. (SPI) (Ref. 2) submitted requests for modification of the test standards for the 90-day dust inhalation study required in the BPA test rule. The Agency reviewed the requested modifications and found them acceptable. Because the modifications clearly do not pose any substantive issues, the Agency, in accordance with the procedures in 40 CFR 790.55, acted on the request immediately so as not to delay the submission of the study plan and conduct of the required testing. The Agency notified the test sponsors by letter of its approval on November 25, 1986 (Ref. 3). In accordance with 40 CFR 790.55, EPA is publishing the modifications to the test standards in the **Federal Register** through this notice. For a more detailed description of the rationale for these modifications, refer to the submitters' letters (Refs. 1 and 2) and EPA's letter in response (Ref. 3). The modifications are as follows:

1. Particle size

The rule specified an actual particle size in micrometers rather than determination of a mass median aerodynamic diameter, the typical measurement used in aerosol studies. In addition, the range is specified as a target range. These modifications have been made to § 799.940(a)(3).

2. Number of clinical biochemistry determinations

The codified rule accurately stated that "at least two" clinical biochemistry determinations are required. The preamble to the rule incorrectly indicated "at least four" instead of "at least two." By way of clarification, the Agency reiterates that "at least two" determinations is correct; no modification to the codified test standard is required.

3. Acid/base determinations

The Agency agreed in response to public comment on the proposed rule that clinical chemistry determinations similar to those used in the 2-week dust inhalation study of BPA sponsored by the SPI (which did not include acid/base determinations) would be adequate for the 90-day study of BPA required by this

rule. Therefore, the Agency is modifying the codified requirements of the rule to eliminate the requirement for acid/base determinations from the clinical biochemistry requirements (40 CFR 799.940(c)(1)(i)(K)(*1*)(*ii*)).

4. Weighing of adrenals and female gonads

Because of technical difficulties in obtaining weight data on adrenals and female gonads, in conjunction with the existing data on BPA and the limited focus of the 90-day inhalation study for BPA, the Agency is eliminating the requirement for weight determinations for the adrenals and female gonads from the gross pathology requirements of the rule (40 CFR 799.940(c)(1)(i)(L)(*2*)).

II. Reporting Deadlines

The SPI further requested that all applicable reporting deadlines be extended by the amount of time taken by EPA to respond to the modification request (Ref. 2). Because the modifications are minor and EPA's response to the request was timely, the Agency does not believe that any additional time will be necessary to meet the deadlines in the BPA rule for the required testing. Therefore, EPA has denied the SPI's request for an extension of the deadlines in the rule (Ref. 3).

III. Public Record

A. Supporting Documentation

EPA has established a public record for this rulemaking [docket number OPTS-42067B]. The record includes the information considered by the Agency in developing this rule.

B. References

(1) The Dow Chemical Company. Letter from John M. Waechter, Jr. to A. E. Conroy, USEPA. October 30, 1986.

(2) The Society of the Plastics Industry. Letter from Hugh Patrick Toner to A.E. Conroy, USEPA. November 3, 1986.

(3) U.S. Environmental Protection Agency. Letter from Charles L. Elkins to Hugh Patrick Toner, SPI. November 25, 1986.

The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. G-004, NE Mall, 401 M St. SW., Washington, DC 20460.

Dated: January 5, 1987.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

Therefore, 40 CFR Part 799 is amended as follows:

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. In § 799.940 by revising paragraphs (a)(3) and (c)(1)(i)(K)(*1*)(*ii*) and (L)(2) to read as follows:

§ 799.940 Bisphenol A.

(a) * * *

(3) BPA shall be administered as a dust for inhalation with a target mass median aerodynamic diameter of 0.1 to 5 micrometers.

(c) * * *

(1) * * *

(i) * * *

(K) * * *

(*1*) * * *

(*ii*) Certain clinical biochemistry determinations on blood shall be carried out at least two times: At terminal sacrifice at the end of the 90-day test period and at completion of the post-exposure recovery period (satellite group). Clinical biochemistry test areas which shall be appropriate to this study include: blood urea nitrogen, glutamic pyruvic transaminase activity, glutamic oxaloacetic transaminase activity, alkaline phosphatase activity, glucose, total protein, albumin, and globulins. Other determinations which may be necessary for an adequate toxicological evaluation include: analyses of lipids, hormones, methemoglobin, and cholinesterase activity. Additional clinical biochemistry may be employed, where necessary, to extend the investigation of observed effects.

(L) * * *

(*2*) At least the liver, kidneys, brain, and male gonads shall be weighed wet, as soon as possible after dissection to avoid drying.

* * * * *

[FR Doc. 87-671 Filed 1-12-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

Deletion of Footnote G105 From the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission amends Part 2 of its Rules to delete footnote G105 from the Table of Frequency Allocations. Footnote G105 permitted radio altimeter operations in the 420–460 MHz band for the military services until January 1, 1985. The footnote is now obsolete and is being deleted.

EFFECTIVE DATE: February 12, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Thomas, Office of Engineering and Technology, (202) 653-8112.

SUPPLEMENTARY INFORMATION:

In the Matter of Amendment of Part 2 to delete footnote G105 from the Table of Frequency Allocations, Order.

Adopted: December 3, 1986.

Released: December 24, 1986.

By the Managing Director:

1. Government footnote, G105, to the Table of Frequency Allocations, § 2.106 of the Rules, provided an allocation for radio altimeter operations in the band 420–460 MHz through January 1, 1985. It further restricted such operations to the military services. Since that date has passed, the footnote is obsolete. Therefore, we are removing the footnote from the Table.

2. This action is considered to be editorial in nature. Accordingly, It Is Ordered, That pursuant to authority of 47 U.S.C. 154(i), 302, and 303, and pursuant to § 0.231(d) of the Commission's Rules, Part 2 of the Commission's Rules and Regulations is amended as shown below.

List of Subjects in 47 CFR Part 2

Frequency allocation.

Rule Changes

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

The authority citations in Part 2 continue to read:

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

Section 2.106 is amended by deleting footnote designator G105 at column 4 in the bands from 420–460 MHz and by deleting the text of footnote G105 from the list of footnotes following the Table of Frequency Allocations.

Federal Communications Commission.

Alan R. McKie,

Deputy Managing Director.

[FR Doc. 87-632 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket 86-78]

Amendment of Part 90 of the Commission's Rules To Permit Secondary Fixed Tone Signalling and Alarm Operations by End Users of Trunked SMRS Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allows trunked SMR system licensees to provide fixed service to eligible end users regardless of whether such users have a mobile communications requirement. Allowing such fixed use increases spectrum utilization without interfering with mobile communications.

EFFECTIVE DATE: February 12, 1987.

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

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, PR Docket 86-78, adopted November 10, 1986 and released December 1, 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.

Summary of Report and Order

1. On March 13, 1986, the FCC released a Notice of Proposed Rule Making (NPRM), PR Docket 86-78, 51 FR 9853 (March 21, 1986), proposing to allow trunked SMRS end users to conduct secondary fixed tone signalling and alarm operations on their mobile service frequencies. The NPRM also proposed that any fixed use would have to meet the technical and operational requirements specified under § 90.235 and that fixed transmitters would not count toward meeting the Commission's loading requirements.

2. All of the comments supported the Commission's proposal to permit SMR end users to operate fixed units in addition to and in the same geographic area as their mobile units for certain tone and alarm signalling functions. Further there was total agreement that such operations be licensed on a secondary basis and that fixed transmitters not count toward meeting SMR loading requirements. In supporting the NPRM, however, several commenters suggested the Commission expand its proposal.

3. By this Report and Order the Commission allowed trunked SMR licensees and end users with a mobile communications requirement to conduct fixed ancillary tone and alarm signalling operations on their mobile service frequencies. All such operations will be licensed on a secondary basis and fixed units will not count toward loading. The Commission agreed with the commenters that fixed tone signalling operations could be expanded without interfering with mobile operations. In response to the comments, the Commission also allowed trunked SMR licensees to provide fixed signalling service to eligible users even if they do not have a mobile communications requirements. Again, the Commission concluded that such use would not result in interference to mobile operations. Further, it decided not to limit the purposes for which fixed signalling can be used. Finally, it adopted an FX 3 class of station code for secondary fixed signalling operations.

4. Pursuant to section 605 of the Regulatory Flexibility Act of 1980, the Commission certifies that the changes in the Report and Order will not have a significant economic impact on a substantial number of small entities. The rules adopted herein merely provide SMRS licensees with more flexibility in using their communication systems. While those rule changes, because they could increase revenues, may have some economic impact, the Commission does not anticipate it will be significant. The bulk of an SMR operator's revenues should continue to be from its two-way operations.

Ordering Clauses

Accordingly, it is order, that pursuant to section 4(i) and 303(1) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is amended as shown at the end of this document.

It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 90

Radio, Private land mobile radio services.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 90 of the Commission's Rules is amended as follows:

1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. as amended, 1066, 1082; 47 U.S.C. 154, 303 unless otherwise noted.

2. Section 90.376 is amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 90.376 Restrictions on operational fixed stations.

(a) Except for control stations, operational fixed stations will not be authorized in the 816-821 and 861-866 MHz bands. This does not preclude secondary fixed tone signaling and alarm operations authorized in § 90.235 or in paragraph (c) of this section.

(b) * * *

(c) Trunked SMR licensees and licensed end users may use the system for fixed ancillary signaling and data transmissions. All such fixed use is subject to the following requirements:

(1) All operations shall be on a secondary, non-interference basis to the primary mobile operation of any other licensee.

(2) The output power shall not exceed 30 watts (at the remote site).

(3) Any fixed transmitters will not count toward meeting the mobile loading requirements nor be considered in whole or in part as a justification for authorizing additional frequencies in the licensee's mobile system.

(4) Automatic means shall be provided to deactivate the remote transmitter in the event the carrier remains on for a period in excess of three minutes.

(5) Operational fixed stations authorized pursuant to the provisions of this paragraph are exempt from the requirements of § 90.425 and § 90.429.

3. Section 90.637 is amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 90.637 Restrictions on operational fixed stations.

(a) Except for control stations, operational fixed stations will not be authorized in the 816-821 and 861-866 MHz bands. This does not preclude secondary fixed tone signaling and alarm operations authorized in § 90.235 or in paragraph (c) of this section.

(b) * * *

(c) Trunked SMR licensees and licensed end users may use the system for fixed ancillary signaling and data transmissions. All such fixed use is subject to the following requirements.

(1) All oprations shall be on a secondary, non-interference basis to the primary mobile operation of any other licensee.

(2) The output power shall not exceed 30 watts (at the remote site).

(3) Any fixed transmitters will not count toward meeting the mobile loading requirements nor be considered in whole or in part as a justification for authorizing additional frequencies in the licensee's mobile system.

(4) Automatic means shall be provided to deactivate the remote transmitter in the event the carrier remains on for a period in excess of three minutes.

(5) Operational fixed stations authorized pursuant to the provisions of this paragraph are exempt from the requirements of §90.425 and §90.429.

[FR Doc. 87-631 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[Acquisition Circular AC-86-6, Supplement 1]

General Services Administration Acquisition Regulation, Status Report of Orders and Shipments

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the General Services Administration Regulation, Acquisition Circular AC-86-6 extends the expiration date to July 3, 1987. The intended effect is to extend the policies and precedures as established in AC-86-6, which revised the Status Report of Orders and Shipment clause at GSAR 552.242-70.

DATES: *Effective date:* January 4, 1987; *Expiration date:* July 3, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-3822.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted agency procurement regulations from Executive Order 12291. The exemption applies to this rule. When AC-86-6 was originally issued, the GSA certified under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that the document would not have a significant economic effect on a substantial number of small entities. Therefore, no regulatory analysis was prepared. The Status Report of Orders and Shipments (GSA Form 1678) has been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and assigned OMB Control Number 3090-0027.

List of Subjects in 48 CFR Part 552

Government procurement.

PART 552—[AMENDED]

1. The authority citation for 48 CFR Part 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR Part 552 is amended by the following supplement to Acquisition Circular AC-86-6:

General Services Administration Acquisition Regulation Acquisition Circular AC-86-6

To: All GSA contracting activities.

Subject: Status Report of Orders and Shipments.

1. *Purpose.* This supplement extends the expiration date of General Services Administration Acquisition Regulation Acquisition Circular AC-86-6.

2. *Effective:* January 4, 1987.

3. *Expiration date:* The General Services Administration Regulation Acquisition Circular AC-86-6 and this supplement will expire on July 3, 1987, unless canceled earlier.

Dated: January 2, 1987.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 87-701 Filed 1-12-87; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Change in List of Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. Appendices I, II, and III of CITES list those species for which trade is controlled. This notice announces a recent decision of the Parties of CITES to amend the listing of the population of the Nile crocodile (*Crocodylus niloticus*) in the Republic of Botswana, transferring this population from Appendix I to Appendix II with an annual export quota of 2,000 specimens. The notice also declares that the U.S. Fish and Wildlife Service (Service) intends not to recommend that the United States enter a reservation on the amendment. Article XV of CITES enables any Party to enter a reservation with respect to any amendment. Parties that enter reservations will be treated as States not party to CITES with respect to trade in the species concerned. Inasmuch as none of the comments received from the public in response to the previous rulemaking notice on this proposed amendment (March 21, 1986; 51 FR 9867) suggested providing less protection than afforded by Appendix II, and since a reservation would not alter the protection provided by the present listing of the species under the Endangered Species Act, and in keeping with the Department of State's general policy which does not favor the taking of reservations, the Service does not intend to recommend entering a reservation. Therefore, this document incorporates this amendment into the Service's regulations implementing CITES.

Comments on the proposed amendment were solicited from the public on March 21, 1986. The Service announced in that notice that the Service might have to decide whether to enter an objection (and thereby necessitate a vote on the proposal) within the CITES-prescribed 30-day period after the CITES Secretariat communicated the comments of the other Parties. Comments of other Parties and a response to them by the Republic of Botswana were distributed by the Secretariat on September 5, 1986. No objections from any Parties were received by the Secretariat, and the proposed amendment thereby was accepted by the Parties. A notice to this effect was distributed to the Parties on October 8, 1986.

DATES: The amendment described in this rule entered into effect on January 3, 1987, under the terms of CITES. Therefore, this rule is effective January 13, 1987.

ADDRESSES: Please send correspondence concerning this final rule to the Chief, Office of Scientific Authority; Mail Stop: Room 527, Matomic Building; U.S. Fish and Wildlife Service; Department of the Interior; Washington, DC 20240. Background materials, as well as materials received, will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, in Room 537, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at the address given above, or telephone (202)653-5948.

SUPPLEMENTARY INFORMATION:

Background

Postal voting procedures for amending the lists of animal and plant species included in Appendices I and II of CITES are provided in Article XV of CITES. Under this article, the Republic of Botswana proposed to transfer the population of Nile crocodile (*Crocodylus niloticus*) in that country from Appendix I to Appendix II subject to an annual export quota of 2,000. In its proposal, the Republic of Botswana reported on the extensive habitat suitable for crocodiles, the establishment of game reserves and national parks where no hunting or capturing is allowed, references to reports based on qualitative observations that the crocodile population is not only healthy but recovering from effects of past exploitation, the enactment of legislation to conserve and control wildlife including a requirement for a license or permit to hunt or capture crocodiles, and its commitment to withdraw its reservation on this species.

The Secretariat sent the proposal, together with its own recommendations, to the Parties on February 12, 1986 (see the Service's notice in the **Federal Register** of March 21, 1986, 51 FR 9867). In response to the Service's notice, comments were received from the Louisiana Department of Wildlife and Fisheries, and the Crocodile Specialist Group of the International Union for the Conservation of Nature and Natural Resources Species Survival Commission (IUCN/SSC) provided a copy of its comments addressed to the Secretariat.

The Louisiana Department of Wildlife and Fisheries supported the transfer of this population of Nile crocodile from Appendix I to Appendix II. However, they indicated concern about the size of the export quota and were reluctant to support a quota greater than that based on a harvest rate of 1,000 animals per year. In its letter to the CITES Secretariat, the IUCN/SSC Crocodile Specialist Group provided background on previous harvest rates. The Group reported that 50,000 crocodiles had been killed by S. M. Lurie and Company and B. Wilmot [a commercial crocodile hunting operation] during a 12-year period of acknowledged overexploitation (4,166/year), and hunting was terminated in 1972. A limited annual harvest ranging from 150 to 500 crocodiles was allowed after 1973. The Group also provided information from several surveys and a harvest rate based on a computer model.

The Group concluded its letter by opposing the proposal until the Government of Botswana (1) limited the exploitation to the collection of wild eggs and hatchlings, (2) banned the exploitation of wild crocodiles over 2 meters in length (except for problem crocodiles that threatened humans and livestock), (3) provided adequate protection from exploitation to all of the geographically widespread populations, (4) established a program similar to that of the Government of Zimbabwe for monitoring the population status of crocodiles, and (5) implemented a marking system for legally obtained crocodile hides and products.

The Service transmitted comments on the proposed amendment by the Republic of Botswana to the CITES Secretariat within the 60-day period provided in CITES. Among other things these comments included (1) a request for information on or clarifications of the population size, population trend, and trends in age structure and/or some assurance that the harvest will not impact significantly upon the mature breeding portion of the population, and (2) a concern that the population might not be able to sustain an annual removal of 2,000 animals from the wild. The United States noted that the Republic of Botswana might be able to attain its export needs with a major part of the export quota restricted to hatchlings and crocodiles reared on the farms and small export quota for wild crocodiles.

Comments were also provided to the Secretariat by 11 other Parties, 8 of whom, including Canada and Norway, supported the proposal without qualification. Japan supported the proposal in principle subject to compliance with Resolution Conf. 5.21 and calculation of the export quota in a manner equivalent to similar quotas adopted for other countries at the fifth meeting of the Conference of the Parties. The Netherlands supported the proposal in principle but was opposed to the high quota, at least until a population estimate was provided. Malawi supported the proposal provided that the population data and trade statistics are presented at the sixth meeting of the Conference of the Parties even though Malawi did not consider the population to be endangered.

In view of the comments received, the CITES Secretariat forwarded the comments to the Republic of Botswana for their consideration. Subsequently, the Republic of Botswana provided new information and comments. On September 5, 1986, the Secretariat distributed a notification to all Parties, which provided a summary of the Parties' comments on the original proposal, Republic of Botswana's response, and the Secretariat's comments and recommendation on the amended proposal, and which informed the Parties of the opportunity to enter an objection to the proposed amendment under Article XV postal vote procedures by October 5, 1986. If no objections are received by the Secretariat within the 30-day time period, such amendments enter into force 90 days later in accord with the provisions of Article XV. If an objection by any Party is received by the Secretariat, the proposed amendment is to be submitted to a postal vote, with two thirds of those Parties voting (provided one half of the Parties vote) needed to adopt the amendment.

In their response to comments from the Parties and the Secretariat's inquiries, the Republic of Botswana provided (1) updated information on the two authorized crocodile farms, (2) a statement of willingness to accept an export quota of 1,600 hatchlings from the farms and 400 adult crocodiles, with 100 of the 400 reserved for hunting (this year's annual quota is set at 50 crocodiles) and animals killed in defense of life and livestock, and with 300 of the 400 from the farms for 1987 with future quotas to be set at the next Conference of Parties. Finally, the Republic of Botswana stipulated that any crocodile removed from the wild for the farms would be classified as "adult" for export purposes despite its age.

The Secretariat noted that since the number of skins or adult animals to be exported under the requested quota is no more than 100, the concerns expressed regarding the breeding population should be dispelled [the United States considers that this number may range up to 400 if those "adults" exported from the farms were originally removed from the wild]. The Secretariat recommended the adoption of this amendment proposal.

The United States considered this qualified proposal based on the guidelines provided in Resolution Conf. 5.21, rather than the Conf. 1.2 downlisting criteria. Resolution Conf. 5.21 provides, in certain situations, for a quota system that is deemed by the Conference of the Parties to be sufficiently safe so as not to endanger the survival of the species in the wild. At the fifth meeting of the Parties the downlisting amendment with export quotas for populations of the Nile crocodile in nine African countries was accepted by the Parties by a vote of 40

to 2 with the United States in favor of that amendment.

After reviewing the original proposal, the comments received, the additional information and assurances provided by the Republic of Botswana, and the Secretariat's recommendation, the United States did not enter an objection. The United States did, however, transmit comments to the Secretariat, recognizing that the Republic of Botswana will implement the export quota through subquotas of 1,600 hatchlings and 400 adult crocodiles. This quota was considered to be equivalent to previous quotas accepted for other countries. Furthermore, the United States noted the importance of quantitative indices on population numbers and age structure, and endorsed the position of the Government of Malawi which expressed support for the amendment with the proviso that data on the population status of the Nile crocodile in the Republic of Botswana are to be presented to the sixth meeting of the Conference of the Parties.

No objections were received by the Secretariat within the specified 30-day time period, and the Secretariat on October 8, 1986, notified the Parties that the amendment would enter into force January 3, 1987.

Article XV of CITES enables any Party to enter a reservation with respect to any amendment. Parties that enter reservations will be treated as States not a party to CITES with respect to trade in the species concerned. Resolution Conf. 4.25 adopted by the Conference of the Parties addresses the issue that Parties entering reservations on a transfer of species from Appendix II to Appendix I or additions to Appendix I are to treat the species as if on Appendix II.

Regardless of whether or not the United States were to enter a reservation, this would not alter the status of the species under the U.S. Endangered Species Act of 1973, as amended. Therefore, these stricter domestic measures would continue to apply to possession and trade in this species. In the case of a nation that is a Party at the time an amendment is adopted, a reservation may be entered only during the period of 90 days after the Parties voted to place the species in Appendix I or II. The Service does not intend to enter a reservation for this population.

Note.—The Department has determined that amendments to CITES appendices, which result from actions of the Parties to CITES, do not require the preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321–4347): 516 DM 2, Appendix I, section 1.10. The Department also has determined that this listing action is not a rule for purposes of Executive Order 12291, and that the Regulatory Flexibility Act (5 U.S.C. 601) and the Paperwork Reduction Act of 1980 (Pub. L. 96–511) do not apply to this listing process.

This rule would implement changes in the listing of the Nile crocodile in the Republic of Botswana in Appendices of CITES that were accepted by the Parties and that the United States is bound to accept unless it enters a reservation. If the United States were to enter a reservation, the United States would be treated as a state not a Party to CITES for this particular population. Even if the United States were to enter a reservation, under the Lacey Act Amendments of 1981 (16 U.S.C. 3771 et seq.) CITES export permits, certificates of origin, or certificates of re-export, as appropriate, may be required from other Parties that do not enter resevations, and these Parties may require similar certificates for exports from the United States. It is not the intent of the amendment or the desire of the Service to provide less protection than afforded by the listing in Appendix II.

The Department of State, as a matter of general policy, does not favor the United States taking reservations under any treaty except in those cases where absent a reservation, the treaty would conflict with U.S. law or be impossible to implement. Therefore, the Department of the Interior has determined that good cause exists for making this rule effective upon the date established by CITES (5 U.S.C. 553(d)).

This notice was prepared by Dr. Charles W. Dane, Chief, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

List of Subjects in 50 CFR Part 23

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

Regulation Promulgation

Accordingly, for reasons set out in the preamble above, Title 50, Chapter I, Subchapter B, Part 23 of the Code of Federal Regulations is amended as set forth below.

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531–1543.

§ 23.23(f) [Amended]

2. In § 23.23(f) table, under Class Reptilia, Order Crocodylia, add Botswana before Cameroon to the list of countries in the Species column listing of *Crocodylus niloticus* (populations in Cameroon . . . Zambia subject to export quotas described by the Secretariat).

Dated: January 2, 1987.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–620 Filed 1–12–87; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 52, No. 8
Tuesday, January 13, 1987

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 85-049]

Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations in 9 CFR Part 78 to restrict the use of tattoos to identify certain sows and boars moved in interstate commerce to situations in which the use of a tattoo has been authorized by the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture. Instead, under this proposal, the primary method of identifying such sows and boars would be through the use of official eartags and United States Department of Agriculture backtags. This proposed amendment appears to be necessary since identification with Veterinary Services approved tattoos has been largely rendered ineffective by changes in slaughter plant methodology.

DATE: Written comments must be received on or before March 16, 1987.

ADDRESS: Written comments concerning this proposed rule should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 85-049. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. C.R. Watson, Interstate Inspection and Compliance Staff, VS APHIS, USDA, Room 828, Federal Building, 6505 Belcrest Road, Hyattsville, MD. 20782, 301-436-8135.

SUPPLEMENTARY INFORMATION:

Background

In a document published in the **Federal Register** on September 12, 1986, at 51 FR 32574-32600, the Animal and Plant Health Inspection Service revised 9 CFR Part 78, which contains regulations designed to prevent the interstate spread of brucellosis. Subpart D of the Regulations (§§ 78.30—78.34) contains provisions restricting movements of certain swine in interstate commerce. This document would amend § 78.33, which contains provisions requiring the use of tattoos and approved swine identification tags as tools for:

(i) Identifying sources of brucellosis by tracing movements of brucellosis infected swine back through marketing channels to herds of origin, and

(ii) Tracing brucellosis infected and exposed swine from herds of origin to final destination to determine the extent of brucellosis spread.

Tattoos

Present § 78.33(a) requires that sows and boars moved in interstate commerce for slaughter or for sale for slaughter be identified by a Veterinary Services approved tattoo, unless the State animal health official and the Veterinarian in Charge authorize the use of approved swine identification tags. However, changes in the practices used at many slaughtering establishments have largely rendered Veterinary Services approved tattoos ineffective as a means for identification and trace-back.

In the past, slaughtering establishments routinely scalded swine in hot water at slaughter. Since this scalding process removed the hair from the hides, identification tattoos were easily read and recorded. Today, many slaughtering establishments use skinning procedures rather than the scalding process. In skinning, hair is not removed from the hides, and tattoos are impossible to read. This process does not negatively impact the use of swine identification tags (official eartags and United States Department of Agriculture backtags) as a means of identification and trace-back.

This document would amend present § 78.33(a) to require that sows and boars moved in interstate commerce for slaughter or for sale for slaughter be identified by an official eartag or a United States Department of Agriculture backtag, except as described below.

The Department recognizes that situations may exist where tattoos are still an effective means of identification—for example, at a slaughter plant that still uses the scalding process. Therefore, this document proposes to add a paragraph (a)(3) to § 78.33, providing for the identification of sows and boars moved in interstate commerce for slaughter or for sale for slaughter by a Veterinary Services approved tattoo when such means of identification has been requested by a user or the State animal health official, and has been authorized by the Deputy Administrator in writing. "Authorization" would be granted when the Deputy Administrator determines that Veterinary Services approved tattoos would provide an effective means of identification and trace-back under the circumstances described in the written request. In order to clarify the meaning of the term "Veterinary Services approved tattoo," this document proposes to add a definition in § 78.1 of the term "Veterinary Services approved tattoo."

Approved Swine Identification Tag

Present § 78.33(a), and (b) refer to "approved swine identification tags" for certain movements of sows and boars in interstate commerce. However, the present regulations do not contain any description of, or specifications for, such tags. These tags are official eartags and United States Department of Agriculture backtags. This document proposes to use these terms since they are more descriptive of the identification required. Further, the term "official eartag" is defined. In order to clarify the meaning of the term "United States Department of Agriculture backtag," this document proposes to add a definition in § 78.1 of the term "United States Department of Agriculture backtag".

Footnotes

Proposed footnote 6 in proposed § 78.33 would amend the present requirements set forth in footnotes 6 and 7 in present § 78.33 by requiring that persons assigned serial numbers of official eartags, United States Department of Agriculture backtags, and Veterinary Services approved tattoos

must identify the herd of origin of swine upon which the serial numbers were used and record this information on a document. Further, proposed footnote 6 would require that each person making such document must maintain the document at their place of business for 2 years. Further, proposed footnote 6 would require that the document shall be made available for inspection during ordinary business hours, upon request, by a Veterinary Services representative or State representative.

These additional proposed requirements are necessary to provide the Department with a means by which diseased swine can be traced to the heard of origin and to provide the Department with a means by which to enforce these proposed regulations.

Footnote 8 in present § 78.33 requires that operators of places of business where swine are identified on arrival shall enter the identification on a document and maintain the document for "at least 1 year." Proposed footnote 7 in proposed § 78.33 would amend present footnote 8 to require that documents, upon which identification of swine is placed, be maintained for 2 years. This increase in time is necessary to increase the Department's enforcement capability. Further, stockyards, market agencies, and dealers operating under the Packers and Stockyards Act (7 U.S.C. 181 *et seq.*) are required to maintain such documents for 2 years. This proposed amendment would not increase the burden of maintaining documents on such establishments and would conform with the regulations imposed by the Packers and Stockyards Administration.

Purebred Registry Associations

Present § 78.33(b)(1)(ii) permit the movement in interstate commerce of sows and boars for breeding, when registered with a registry association and individually identified in the same manner as recorded with a registry association. In order to clarify this section, this document proposes to use the term "purebred registry association," to state the manner by which such associations record the identification of purebred sows and boars, and to add a definition in § 78.1 of the term "purebred registry association."

Miscellaneous

This document would also make certain nonsubstantive changes in the regulations for purposes of clarity.

Paperwork Reduction Act

In accordance with section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Written comments concerning any information collection provisions should be submitted to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer of APHIS, Washington, DC 20503. A duplicate copy of such comments should be submitted to: Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Executive Order 12291 and Regulatory Flexibility Act

This proposed action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action would not have an effect on the economy of $100 million or more; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and should have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The adoption of the proposal would merely mean that official eartags and United States Department of Agriculture backtags would become the primary tool for identification of sows and boars moved in interstate commerce for slaughter or breeding, rather than Veterinary Services approved tattoos as is now the case, and would remove the prior approval requirement with respect to the use of official eartags and United States Department of Agriculture backtags for such movements. These proposed changes should have little effect on the movement of swine in the interstate commerce.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, it is proposed to amend the regulations contained in 9 CFR Part 78 as follows:

1. The authority citation for Part 78 would continue to read:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 78.1 would be amended by adding new definitions in alphabetical order to read as follows:

§ 78.1 [Amended]

* * * * *

Purebred registry association

* * * * *

United States Department of Agriculture backtag

* * * * *

Veterinary Services approved tattoo

* * * * *

Purebred registry association. A swine breed association formed and perpetuated for the maintenance of records of purebreeding of swine species for a specific breed whose characteristics are set forth in Constitutions, By-Laws, and other rules of the association.

* * * * *

United States Department of Agriculture backtag. A Veterinary Services approved identification backtag conforming to the eight-character alpha-numeric National Backtagging System which provides a unique identification for each individual animal.

* * * * *

Veterinary Services approved tattoo. A tattoo, conforming to the six character alpha-numeric National Tattoo System, which is assigned by a State animal health official or the Veterinarian in Charge to provide a unique identification for each herd or lot of swine.

* * * * *

3. Section 78.33 would be amended by revising paragraphs (a) and (b) introductory text and (1) to read as follows:

§ 78.33 Sows and boars.

(a) Sows and boars may be moved in interstate commerce for slaughter or for sale for slaughter only if the sows and boars are:

(1) Individually identified by an official eartag or a United States Department of Agriculture backtag [6]

[6] Serial numbers of official eartags, United States Department of Agriculture backtags, and Veterinary Services approved tattoos will be assigned to persons upon application to the State animal health official or the Veterinarian in Charge for the State in which such persons maintain their place of business. The person assigned serial numbers must identify the herd of origin of swine upon which the

Continued

applied to each sow and boar prior to movement in interstate commerce and before the sows and boars are mixed with swine from any other source; or

(2) Individually identified by an official eartag or a United States Department of Agriculture backtag [6] applied to each sow and boar upon arrival after movement in interstate commerce and before the sows and boars are mixed with swine from any other source, when moved directly from their herd of origin to:

(i) A recognized slaughtering establishment [7]; or

(ii) A stockyard, market agency, or dealer operating under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*) [7]; or

(3) Identified by a Veterinary Services approved tattoo [6], when the use of the Veterinary Services approved tattoo [6] has been requested by a user or the State animal health official, and the Deputy Administrator authorizes its use in writing based on a determination that use of the Veterinary Services approved tattoo [6] will provide a means of tracing the movement of the sows and boars in interstate commerce.

(b) Sows and boars may be moved in interstate commerce for breeding only if the sows and boars are:

(1) Individually identified prior to movement in interstate commerce and before the sows and boars are mixed with swine from any other source:

(i) By an official eartag [6]; or

(ii) By ear notching or an ear tattoo that has been recorded in the book of record of a purebred registry association.

* * * * *

§ 78.44 [Amended]

4. In § 78.44, footnote number "9" and the reference thereto would be renumbered "8".

serial numbers were used and record this information on a document. Each person making such document must maintain the document at the place of business for 2 years. The document shall be made available for inspection during ordinary business hours upon request by a Veterinary Services representative or a State representative.

[7] The operator of each place of business where sows and boars are identified on arrival in accordance with this section shall enter such identification on the yarding receipt, sale ticket, invoice, or waybill relating to the sows and boars, and maintain the document at the place of business for 2 years. The document shall be made available for inspection during ordinary business hours upon request by a Veterinary Services representative or State representative.

Done at Washington, DC, this 7th day of January 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 87-593 Filed 1-12-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-75-AD]

Airworthiness Directives; British Aerospace (BAe) Jetstream Model 3101 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to BAe Jetstream Model 3101 airplanes which would impose an elevator cable life limitation. Failure of the autopilot elevator trim cable, ET1, has occurred, causing a nose up trim selection indicated on the flight deck console indicator without affecting the elevator tabs. Since this failure is not easily detectable by inspection, a cable life limit is being introduced by BAe to prevent the possible loss of elevator trim control.

DATES: Comments must be received on or before February 13, 1987.

ADDRESSES: BAe Mandatory Alert Service Bulletin 22-A-JA861023 dated December 2, 1986, applicable to this AD may be obtained from Spares Manager, Product Support, British Aerospace plc, Civil Aircraft Division, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-75-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. Harvey A. Chimerine, FAA, Project Support Staff Foreign, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-75-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

One operator of a Jetstream Model 3101 airplane with an autopilot installation experienced a failure of the elevator trim servo cable, ET1. The failure was no elevator trim tab movement with a nose up trim selection, although indicated on the flight deck center console indicator. Subsequent investigations by the manufacturer, British Aerospace, on the particular cable and on further samples of the cable from other operator aircraft, have revealed that the nature of the failure is fracture of the center strand of the cable leading to loss of load carrying capabilities of the cable, and eventual separation and possible loss of elevator trim control. Since this failure mode is not easily detectable by inspection, it is therefore necessary to introduce a life limit for this cable. As a result, British Aerospace has issued BAe Mandatory Alert Service Bulletin 22-A-JA861023 dated December 2, 1986, which introduces a life limit of 2,000 hours time-in-service on the elevator trim servo cable to prevent the possible loss

of elevator trim control. The Civil Airworthiness Authority-United Kingdom (CAA-UK), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom, has classified this BAe Mandatory Alert Service Bulletin 22-A-JA861023 dated December 2, 1986, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of CAA-UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of BAe Mandatory Alert Service Bulletin 22-A-JA861023 dated December 2, 1986, and the mandatory classification of this British Aerospace (BAe) Mandatory Alert Service Bulletin 22-A-JA861023 dated December 2, 1986, by the CAA-UK. Based on the foregoing, the FAA believes that the condition addressed by BAe Mandatory Alert Service Bulletin 22-A-JA861023 dated December 2, 1986 is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require on BAe Jetstream Model 3101 airplanes to introduce a life limitation, and replace the elevator trim servo cable, ET1, Part Number 137187E472, before reaching 2,000 hours time-in-service.

The FAA has determined there are only two airplanes affected by the proposed AD. The cost of accomplishing this replacement of these cables in the proposal is estimated to be $560 per airplane. The total cost is estimated to be $1,120 to the private sector. The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [AMENDED]

2. By adding the following new AD:

British Aerospace: Applies to Jetstream Model 3101 (all serial numbers) airplanes equipped with Sperry SPZ-200B autopilot installations, certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent the possible loss of elevator trim control, accomplish the following:

(a) For all affected airplanes on which the autopilot elevator trim servo cable has accumulated, 1,900 hours or more time-in-service (TIS), within the next 100 hours TIS after the effective date of this AD and thereafter at intervals not to exceed 2,000 hours time-in-service, replace the elevator trim servo cable, ET1, BAe Part Number 137187E472, in accordance with BAe mandatory Alert Service Bulletin 22-A-JA861023 dated December 2, 1986.

(b) For all affected airplanes on which the autopilot elevator trim servo cable has accumulated less than 1,900 hours TIS, at or before reaching 2,000 hours TIS and thereafter at intervals not exceeding 2,000 hours TIS, replace the autopilot elevator trim servo cable, EY1, BAe Part Number 137187E472, in accordance with BAe Mandatory Alert Service Bulletin 22-A-JA861023 dated December 2, 1986.

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

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

All persons affected by this directive may obtain a copy of the document referred to herein upon request to Spares Manager, Product Support, British Aerospace plc, Civil Aircraft Division, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 30, 1986.

Barry D. Clements,

Acting Director, Central Region.

[FR Doc. 87-623 Filed 1-12-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Permanent Regulatory Program

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

ACTION: Reopening and extension of public comment period.

SUMMARY: On June 11, 1986, the Indiana Department of Natural Resources submitted to OSMRE a set of proposed amendments consisting of Senate Enrolled Act No. 41, amendments to the Indiana Surface Mining Law, and House Enrolled Act No. 1339, the new State Administrative Adjudication Act.

OSMRE published a notice in the **Federal Register** July 3, 1986, announcing receipt of the amendments and inviting public comment on their adequacy (51 FR 24388). The public comment period ended August 4, 1986. During its review of Indiana's proposed amendments OSMRE identified some concerns relating to the provisions on "temporary relief" and to certain Administration Adjudication Act provisions.

Indiana responded on November 7, 1986, by submitting additional information and explanation concerning the proposed amendments.

On December 15, 1986, OSMRE reopened the comment period to December 30, 1986, to allow consideration of the new material (51 FR 44926). Subsequently, a request was received to further extend the comment period because the reopening period included the holiday season and the requestor was therefore unable to sufficiently review the new material. Accordingly, OSMRE is reopening and

extending the comment period for an additional 15 days.

DATE: Written comments relating to Indiana's proposed modifications of its program not received on or before 4:00 p.m. on January 28, 1987, will not necessarily be considered in the Director's decision to approve or disapprove the amendments.

ADDRESSES: Written comments should be mailed or hand-delivered to Mr. Richard D. Rieke, Director, Indiana Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204; Telephone (317) 269-2600.

Copies of the Indiana program, the proposed amendment, and all written comments received in response to this notice will be available for review at the OSMRE offices and the office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m. excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315A, 1100 "L" Street NW., Washington, DC 20240

Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204

Indianapolis Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204; Telephone: (317) 269-2600.

SUPPLEMENTARY INFORMATION: Information regarding the general background on the Indiana State Program including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32071-32106).

On June 11, 1986, the Indiana Department of Natural Resources submitted to OSMRE pursuant to 30 CFR 732.17, proposed State program amendments for approval. The amendments are contained in Senate Enrolled Act No. 41, which amends the Indiana Surface Mining Law at IC 13-4.1, and House Enrolled Act No. 1339, the New State Administrative Adjudication Act at IC-4-21-.5.

OSMRE announced receipt of the amendments and initiated a public comment period on July 3, 1986 (51 FR 24388). The public comment period ended on August 4, 1986. A public hearing scheduled for July 28, 1986, was not held because no one expressed a desire to present testimony.

During the review of Indiana's proposed amendments, OSMRE identified the following concerns.

1. Senate Enrolled Act No. 41 would delete language allowing a person to request temporary relief under Indiana Code (IC) 13-4.1-11-8.

2. House Enrolled Act No. 1339 Chapter 3, section 6(d) would allow a lapse of 15 days or more between the citing of a violation and issuance of a notice of violation.

3. Intervention rights described in House Enrolled Act No. 1339 Chapter 3, section 21 would be more restrictive than intervention rights provided in 43 CFR 4.1110.

4. Certain provisions in House Enrolled Act No. 1339, IC 4-21.5 section 25(d) could infringe on a party's right to due process.

OSMRE notified Indiana of these concerns in a letter dated October 6, 1986. Indiana responded in a letter dated November 7, 1986, by submitting modifications and additional information on, and explanation of, its proposed amendments. OSMRE reopened the comment period on these amendments on December 15, 1986, for a period of fifteen days. In response to a request received subsequent to that reopening, OSMRE is again reopening the comment period for an additional 15 days.

The full text of the proposed program amendment and the additional material are available for review at the locations listed above under "**ADDRESSES.**"

Accordingly, the Director, OSMRE is now seeking public comments on the adequacy of the State's submissions. The public comment period is hereby extended to January 28, 1987. All comments should be submitted to the location shown above under "**ADDRESSES**" in order to be considered by the Director in his decision on the program amendment.

List of Subjects in 30 CFR Part 914

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

Dated: January 7, 1987.

Brent Walquist,

Assistant Director, Program Policy.

[FR Doc. 87-657 Filed 1-12-87; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 60a

[DoD Directive 1010.9]

DoD Civilian Drug Testing Program

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: 32 CFR Part 60a is being established to comply with Executive Order 12564 and Federal Personnel Manual (FPM) letter No. 792-16. Because of the President's initiative to create a drug-free workplace, each Federal agency is required to establish a drug testing program for civilian employees. All DoD Components must implement a civilian drug testing program. This program will affect certain persons in sensitive positions and may affect applicants for these positions.

DATE: Comments should be received by February 12, 1987.

ADDRESS: Send comments to Sharon Cooper, Office of the Secretary of Defense (Force Management and Personnel), Room 3D253, the Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Sharon Cooper, (202) 695-7996.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 60a

Drug abuse, Civilian employees.

Accordingly, Title 32 is proposed to be amended to add Part 60a as follows:

PART 60a-DoD CIVILIAN DRUG TESTING PROGRAM

Sec.
60a.1 Purpose.
60a.2 Applicability.
60a.3 Definitions.
60a.4 Policy.
60a.5 Responsibilities.
60a.6 Procedure.
60a.7 Effective date and implementation.

Authority: E.O. 12564, 51 FR 32889, September 17, 1986.

§ 60a.1 Purpose.

This part: (a) Authorizes the establishment of the DoD Civilian Employee Drug Abuse Testing Program under E.O. 12564 and Federal Personnel Manual (FPM) letter No. 792.

(b) Provides policy, prescribes procedures, and assigns responsibilities for drug abuse urinalysis testing for DoD civilian employees (hereafter referred to as "employees").

§ 60a.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments (including their reserve components), the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

§ 60a.3 Definitions.

DoD civilian employee. An employee of the Department of Defense who is paid from appropriated or nonappropriated funds.

Employee Assistance Programs. Component-based counseling programs that offer assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems that affect employee job performance. Employee Assistance Programs are responsible for referring employees who are abusing drugs for rehabilitation and for monitoring employees' progress while in treatment as set forth in DoD Directive 1010.6[1].

Illegal drugs. Controlled substances included in Schedule I or II, as defined by section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that title. The term "illegal drugs" does not include the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

Sensitive position. (1) An employee in a position that a DoD Component Head designates special-sensitive, critical-sensitive, or noncritical-sensitive under chapter 731 of the Federal Personnel Manual or an employee in a position that a DoD Component Head designates as sensitive in accordance with E.O. 10450, as amended;

(2) An employee who has been granted access to classified information or may be granted access to classified information pursuant to a determination of trustworthiness by a DoD Component Head under Section 4 of E.O. 12356;

(3) Individuals serving under Presidential appointments;

(4) Law enforcement officers as defined in 5 U.S.C. 8331(20); and

(5) Other positions that the DoD Component Head determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 301, 5801 Tabor Avenue, Philadelphia, PA 19120.

§ 60a.4 Policy.

(a) It is DoD policy to comply with E.O. 12564 and FPM letter No. 792-16.

(b) DoD employees are required to refrain from the use of illegal drugs.

(c) The use of illegal drugs by DoD employees, whether on duty or off duty, is contrary to the efficiency of DoD.

(d) Persons who use illegal drugs are not suitable for Federal employment.

§ 60a.5 Responsibilities.

(a) The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) is responsible for the administration of this program.

(b) The Assistant Secretary of Defense (Health Affairs) (ASD(HA)) is responsible for the technical and scientific aspects of this program in the areas of biochemical testing and Employee Assistance Programs. The ASD(HA) must approve the urine collection and laboratory testing procedures of the implementing documents.

(c) The General Counsel is responsible for consultation with the Attorney General under provisions of E.O. 12564 concerning implementing documents and amendments thereto concerning this part.

(d) For purposes of this part, the Director, Washington Headquarters Services (WHS), is the DoD Component Head for employees of WHS, and the Office of the Secretary of Defense (OSD), and its field activities.

(e) The Secretary of the Army is responsible for providing the operational aspects of the testing requirements for employees of OSD and its field activities. A Memorandum of Understanding (MOU) will be entered into by the Secretary of the Army and the Director, WHS for this purpose. Other requirements of this part may be included in the MOU which are determined necessary by either official.

(f) *Heads of Dod components.*—(1) Shall develop a plan and implementing documents for achieving the objective of a drug-free workplace with due consideration of the rights of the government, the employee, and the general public. The plan and implementing documents shall include:

(i) A statement of policy setting forth the Component's expectations regarding drug use and the action to be anticipated in response to identified drug use;

(ii) Employee Assistance Programs emphasizing high level direction, education, counseling, referral to rehabilitation, and coordination with available community resources.

(iii) Supervisory training to assist in identifying and addressing illegal drug use by Component employees.

(iv) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues, and

(v) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis in accordance with this part.

(2) Shall establish a program to test for the use of illegal drugs by employees in sensitive positions. The extent to which such employees are tested and the criteria for such testing shall be determined by the Head of each DoD Component, based on the nature of the Component's mission and its employees' duties, the efficient use of Component resources, and the danger to the public health and safety or national security that could result from the failure of an employee to discharge his or her position adequately.

(3) Shall establish a program for voluntary employee drug testing at a time determined by the Component Head.

(4) Are authorized, in addition to the testing program established under paragraph (f)(2) of this section to test any employee for illegal use under the following circumstances:

(i) When there is a reasonable suspicion that any employee uses illegal drugs;

(ii) In an examination authorized by the Component regarding an accident for unsafe practice;

(iii) As part of a follow-up to counseling or rehabilitation for illegal drug use through an Employee Assistance Program.

(5) Are authorized to test any applicant for illegal drug use:

(i) Applicants who are not current employees and who refuse to be tested must be refused that employment;

(ii) All applicants with confirmed positive test results shall be refused employment.

(6) Shall incorporate the guidelines set forth in FPM letter No. 792, in the implementing documents.

(7) Are authorized to take all actions that are described to heads of Executive agencies in FPM letter No. 792-16.

§ 60a.6 Procedures.

(a) *Drug testing procedures.* (1) Sixty days prior to implementation of a drug testing program pursuant to this part, Components shall notify all employees that testing for use of illegal drugs is to be conducted and that they may seek counseling and rehabilitation and inform

them of the procedures for obtaining such assistance through the agency's Employee Assistance Program. DoD Component drug testing programs already ongoing are exempted from the 60-day notice requirement. DoD Components may take action under § 60a.5(f)(5) without reference to the 60-day notice period.

(2) Components should ensure a specific notice is given, in writing, to each employee in a testing designated position no later than thirty days before testing commences. Components should obtain a written acknowledgement of receipt of the notice.

(3) Before conducting a drug test, the DoD Component shall inform the employee to be tested of the opportunity to submit medical documentation that may support a legitimate use for a specific drug. The test may be given any time after the employee is so notified.

(4) Urine specimens shall be processed using appropriate chain-of-custody procedures from the point of collection until the results are reported by the drug testing laboratory.

(5) A responsible individual, such as an alcohol or drug coordinator at the work location, shall be assigned to coordinate urine collection.

(6) The urinalysis coordinator and/or designated contractor shall follow urine collection and laboratory testing procedures promulgated by the ASD(HA).

(7) All DoD Components shall use drug testing laboratories that are certified by the ASD(HA) or the Secretary of Health and Human Services.

(8) Each DoD Component implementing document shall contain:

(i) Procedures for timely submission of requests for retention of records and specimens.

(ii) Procedures for retesting specimens.

(iii) Procedures for providing urine specimens that allow individual privacy, unless the DoD Component has reason to believe that a particular individual may alter or substitute the specimen to be provided.

(iv) Procedures, consistent with applicable law, to protect the confidentiality of test results and related medical and rehabilitation records.

(9) As part of the drug testing procedure, Components should obtain consent to disclose confirmed positive test results to the Component's medical review official (as defined by the ASD(HA)), the administrator of the Component Employee Assistance Program, and to the management official empowered to recommend or take action. This consent must be obtained prior to the test itself. Consequently, refusal to consent to release of this information will be considered a refusal to take the test.

(b) *Personnel actions.* (1) DoD Components shall in addition to any appropriate personnel actions, refer any employee who is found to use illegal drugs to an Employee Assistance Program for assessment, counseling, and referral for treatment or rehabilitation as appropriate.

(2) DoD Components shall initiate action to discipline any employee who is found to use illegal drugs, provided that such action is not required for an employee who:

(i) Voluntarily identifies himself or herself as a user of illegal drugs or who volunteers for drug testing pursuant to § 60a.5(f)(3), prior to being identified through other means;

(ii) Obtains counseling or rehabilitation through an Employee Assistance Program; and

(iii) Thereafter refrains from using illegal drugs.

(3) DoD Components shall not allow any employee to remain on duty in a sensitive position who is found to use illegal drugs, prior to successful completion of rehabilitation through an Employee Assistance Program. However, as part of a rehabilitation or counseling program, the Head of a DoD Component may allow an employee to return to duty in a sensitive position if it is determined that this action would no longer pose a danger to public health or safety or the national security.

(4) DoD Components shall initiate action to remove from the service any employee who is found to use illegal drugs and:

(i) Refuses to obtain counseling or rehabilitation through an Employee Assistance Program; or

(ii) Does not thereafter refrain from using illegal drugs.

(5) Removal from the Federal service is required after a second determination that the employee uses illegal drugs.

(6) The results of a drug test and information developed by the DoD Component in the course of the drug testing of the employee may be considered in processing any adverse action against the employee or for other administrative purposes. Preliminary test results may not be used in an administrative proceeding unless they are confirmed by a second analysis of the same sample or unless the employee confirms the accuracy of the initial test by admitting the use of illegal drugs.

(7) The determination by a DoD Component that an employee uses illegal drugs can be made on the basis of any appropriate evidence, including direct observation, a criminal conviction, administrative inquiry, or the results of an authorized testing program. Positive drug test results may be rebutted by other evidence that an employee has not used illegal drugs.

(8) Any action to discipline an employee who is using illegal drugs (including removal from the service, if appropriate) shall be taken in compliance with otherwise applicable procedures, including the Civil Service Reform Act.

(9) Drug testing shall not be conducted pursuant to this part for the purpose of gathering evidence for use in criminal proceedings. DoD Components are not required to report to the Attorney General for investigation or prosecution any information, allegation, or evidence relating to violations of Title 21 of the United States Code received as a result of the operation drug testing programs established pursuant to this Order.

(10) Components must take disciplinary action to deal with employees who refuse to be tested. Such action may include, but is not necessarily limited to, removal of such employees as failing to meet a condition of employment.

§ 60a. 7 Effective date and implementation.

(a) This part is effective (upon publication of final rule) for the purpose of preparing implementing documents. This part applies to drug abuse testing of DoD civilian employees conducted on or after _____, except that a DoD Component, with the approval of the ASD(FM&P), may implement this part prior to _____.

(b) Nothing in this part shall be construed to render invalid any test conducted before _____ under a DoD Component's drug abuse testing program.

(c) DoD Components shall forward two copies of proposed implementing documents to the Assistant Secretary of Defense (FM&P), at least 45 days before the date on which the Component plans to initiate such a program.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 24, 1986.

Appendix A—Findings by the President Contained in E.O. 12564

[Editorial Note: The following appendix will not appear in the Code of Federal Regulations.]

Drug use is having serious adverse effects upon a significant proportion of the national work force and results in

billions of dollars of lost productivity each year;

The Federal government, as an employer, is concerned with the well-being of its employees, the successful accomplishment of agency missions, and the need to maintain employee productivity;

The Federal government, as the largest employer in the Nation, can and should show the way towards achieving drug-free workplaces through a program designed to offer drug users a helping hand and, at the same time, demonstrating to drug users and potential drug users that drugs will not be tolerated in the Federal workplace;

The profits from illegal drugs provide the single greatest source of income for organized crime, fuel violent street crime, and otherwise contribute to the breakdown of our society;

The use of illegal drugs, on or off duty, by Federal employees is inconsistent not only with the law-abiding behavior expected of all citizens, but also with the special trust placed in such employees as servants of the public;

Federal employees who use illegal drugs, on or off duty, tend to be less productive, less reliable, and prone to greater absenteeism than their fellow employees who do not use illegal drugs;

The use of illegal drugs, on or off duty, by Federal employees impairs the efficiency of Federal departments and agencies, undermines public confidence in them, and makes it more difficult for other employees who do not use illegal drugs to perform their jobs effectively. The use of illegal drugs, on or off duty, by Federal employees also can pose a serious health and safety threat to members of the public and to other Federal employees;

The use of illegal drugs, on or off duty, by Federal employees in certain positions evidences less than the complete reliability, stability, and good judgment that is consistent with access to sensitive information and creates the possibility of coercion, influence, and irresponsible action under pressure that may pose a serious risk to national security, the public safety and the effective enforcement of the law; and

Federal employees who use illegal drugs must themselves be primarily responsible for changing their behavior and, if necessary, begin the process of rehabilitating themselves.

[FR Doc. 87-393 Filed 1-12-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 110

[OPH-001-P]

Employer Contributions to Health Maintenance Organizations Option

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend current Public Health Service rules (now the responsibility of HCFA [1]) concerning health maintenance organizations (HMOs) by removing the requirement that an employer contributing to the costs of non-HMO alternatives in an employee health benefits plan contribute in a like manner to an HMO alternative. This requirement has been determined to interfere inappropriately with employer prerogatives.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 pm. on March 16, 1987.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: OPH-001-P, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code OPH-001-P. Comments will be available for public inspection as they are received, generally beginning about three weeks after publication of a document, in Room 309-G of the Department 's offices at 200 Independence Ave. SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Carolyn Cocotas, (202) 245-8036.

SUPPLEMENTARY INFORMATION:

I. Backgound

Section 1310 of the Public Health Service Act (the PHS Act) mandates that certain employers (generally those employing 25 or more persons) offer to their employees the option of membership in a qualified Health Maintenance Organization (HMO), and prescribes penalties for failure to comply with the requirements of this section. Implementing regulations for section 1310 of the PHS Act are found at 42 CFR 110.801 through 110.810.

Currently, § 110.808, which deals with the monetary contribution that an employer makes to a federally qualified HMO on behalf of an employee choosing to enroll in the HMO, requires that an HMO option be offered to employees on the same terms (that is, with respect to the amount of the contributions) as are other health benefit alternative plans offered by the employer. Section 110.808 also requires that an employer's contribution to an HMO be equal to the largest contribution paid on behalf of an employee to any non-HMO alternative health plan offered by the employer, up to, but not exceeding, the HMO premium. For purposes of calculating an employer's contribution to an HMO, § 110.808 sets out in detail the manner in which the employer's contribution to the non-HMO alternative health benefit plan is calculated and requires the employer to retain for a period of three years the data used to compute the employer's contribution. In order to assure an employer's compliance with § 110.808, the data relating to the calculation of the employer's contribution are subject to review by the Secretary.

II. Proposed Change

The initial reason for imposing the monetary contribution requirement described in § 110.808 was to assure that employees offered an HMO option would be presented with a clear choice between health delivery systems, all other aspects of the offering being equal. However, since the imposition of this requirement, we have become aware that the monetary contribution requirement is an unnecessary instrusion into the marketplace and is no longer beneficial.

The monetary contribution requirement prevents employers from basing their contributions on the experience of the populations being served by the various plans. This prohibition has a tendency to increase an employer's health benefits costs. If healthier employees choose the HMO

[1] See the delegation of authority published March 21, 1986 (51 FR 9894-9895).

option, the experience-based costs for the traditional plans rise while the costs to the HMO fall. Under the monetary contribution requirement, if an employer increases its contribution to a traditional plan, it also must increase by the same amount (up to the limit of the entire HMO premium) its contribution to the HMO alternative. In this circumstance the employer's contribution to the HMO can be unnecessarily raised even though the costs of providing services to the HMO population are in fact lowered.

Further, we believe that the monetary contribution requirement unnecessarily and inappropriately intrudes into an employer's internal management decisions. In the 1970's the dual choice mandate, that is, the requirement that employers offer one of each type of federally qualified HMOs, was established as support for an "infant" industry. As additional support for HMOs, the Department promulgated the monetary contribution requirement. The premise for these actions is no longer true. The HMO industry is large and rapidly growing, and does not need Federal Government assistance to compete with other health delivery systems. Thus, the monetary contribution requirement infringes, without countervailing benefits, on the employer's right, and duty, to manage its employee benefit plans. There is no longer any basis for providing more support to HMOs than the statute requires. Accordingly, we are proposing to remove § 110.808 from the regulations.

If the regulations are removed as proposed, the theoretical possibility exists that an employer could choose to make no contribution to the premium of an HMO, even though the employer may be contributing on behalf of employees to other alternative health benefit plans. Our proposal to remove § 110.808 from the regulations would not directly prohibit such an outcome. However, the Department points out that Title XIII of the PHS Act specifically provides substantial civil penalties for an employer who "knowingly does not comply" with the requirement to offer the option of HMO membership. An offer that did not include employer contributions would not, in our view, be a *bona fide* offer. We see no need to guard against such a remote contingency absent any history or pattern of abuse.

During the development of this proposal, we considered requiring employers to make an "equitable" contribution to HMO alternative health benefit plans but decided this requirement would lead to unnecessary regulation and would not be administratively feasible. However, we invite specific public comments about this approach.

III. Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish an initial regulatory impact analysis for any proposed regulations that are likely to meet criteria for a "major rule." A major rule is one that would 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 any geographic regions; or

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

In addition, consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), we prepare and publish an initial regulatory flexibility analysis for proposed regulations unless the Secretary certifies that the regulations would not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all HMOs to be small entities.

This proposed rule would remove the requirement that an employer contributing to the cost of non-HMO alternative employee health benefit plan must contribute an equal amount (up to the amount of the entire premium) to an HMO alternative employee health benefit plan. We expect the impact of this action to be positive due to the increased flexibility and options available to employers.

We have determined that this proposed rule is not a major rule, and the Secretary certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

IV. Other Required Information

A. Paperwork Burden

This proposed rule would not impose information collection requirements; consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

B. Public Comments

Because of the large number of pieces of correspondence we normally receive on a proposed rule, we are not able to respond to them individually. However, we will consider all comments contained in correspondence that we receive by the date and time specified in the "Dates" section of this preamble and, if we decide to proceed with a final rule, we will respond to the comments in the preamble of that rule.

List of Subjects in 42 CFR Part 110

Grant program/health, Health care, Health facilities, Health insurance, Health Maintenance Organizations, Loan program/health.

42 CFR Part 110, Subpart H would be amended as set forth below:

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

Subpart H—Employees' Health Benefits Plans

1. The authority citation for Subpart H is revised to read as follows:

Authority: Secs. 215, and 1301–1318 of the Public Health Service Act, as amended, (42 U.S.C. 216, and 300e–300e–17).

§ 110.808 [Removed]

2. Section 110.808 is removed.

(Secs. 215 and 1301–1318 of the Public Health Service Act, as amended, (42 U.S.C. 216 and 300e–300e–17))

Dated: September 29, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: October 30, 1986.

Don M. Newman,

Acting Secretary.

[FR Doc. 87–691 Filed 1–9–87; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 31 and 32

[CC Docket No. 86–322; RM–4966]

Common Carrier Services; Petition of Mountain States Telephone and Telegraph Co. et al.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: On December 23, 1986, the Commission published a Proposed Rule in this proceeding concerning the petition of Mountain States Telephone and Telegraph Co., et al. (51 FR 45915). The comment dates were misstated in that document and are herein corrected.

DATES: Comments on the Proposed Rule are due on February 6, 1987 and replies by February 23, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John T. Curry, (202) 634-1861.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 87-635 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-473, RM-5388]

Radio Broadcasting Services; Roseville, Chico and South Lake Tahoe, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by the Fuller-Jeffery Group and Entertainment Enterprises, Inc. requesting: substitution of Channel 229B1 for 228A at Roseville, CA and modification of the license for Station KDJQ(FM); substitution of Channel 230B1 for 229B Chico, CA and modification of the license for Station KFMF(FM); and substitution of Channel 230B1 for Channel 230B at South Lake Tahoe, CA and modification of the license for Station KRLT(FM) accordingly.

DATES: Comments must be filed on or before February 23, 1987, and reply comments on or before March 10, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Roger J. Metzler, Esq., Farrand, Malti, Cooper and Metzler, 701 Sutter St., 7th Flr., San Francisco, CA 94109.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-473, adopted November 28, 1986, and released December 31, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-638 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-454, RM-5499]

Radio Broadcasting Services; Frostburg, MD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by He's Alive, Inc., proposing the allotment of FM Channel 246A to Frostburg, Maryland, and reservation of the channel for noncommercial use. Allotment of Channel 246A at Frostburg could provide a second noncommercial channel for the community. Canadian concurrence is required for the allocation of Channel 246A at Frostburg, Maryland.

DATES: Comments must be filed on or before February 23, 1987, and reply comments on or before March 10, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 29554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Lee J. Peltzman, Baraff, Koerner, Olender and Hochberg, P.C., 2033 M Street, NW., Suite 203, Washington, DC 20036 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-454, adopted November 20, 1986, and released December 31, 1986. The full text of this Commission decision is available for inspection and copying normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Ralph A. Haller,

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

[FR Doc. 87-640 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-480, RM-5431]

Radio Broadcasting Services; Starkville, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Starkville Broadcasting Co., Inc. proposing the Substitution of FM Class C2 291 for Channel 292A at Starkville, Mississippi, and modification of the license for Station WSMU(FM) at Starkville to specify operation on the higher class of channel. This proposal could provide a first wide coverage area station to Starkville.

DATES: Comments must be filed on or before February 20, 1987, and reply comments on or before March 9, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Ashton R. Hardy, James J. Popham, Riley M. Murphy,

Hardy & Popham, 700 Camp Street, New Orleans, Louisiana 70130 (Counsel for Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-480, adopted December 4, 1986, and released December 31, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-641 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-453, RM-5585]

Radio Broadcasting Services; Bennington, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes the allocation of Channel 227A to Bennington, Nebraska, as the community's first local FM service, at the request of John Tynan. The allotment requires a site restriction of 1.8 kilometers east to avoid a short-spacing to Station KKYA, Yankton, SD, and is also contingent upon Station KDWZ, Des Moines, Iowa, being licensed at the transmitter site and with the facilities specified in its construction permit (BPH-830906AF).

DATES: Comments must be filed on or before February 23, 1987, and reply comments on or before March 10, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James E. Price, Sterling Communications, Inc., P.O. Box 80484, Chattanooga, TN 37411-7484 (Consultant to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-453 adopted November 20, 1986, and released December, 31, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceeding, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-642 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-475, RM-5572]

Radio Broadcasting Services; Deming and Las Cruces, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes the substitution of noncommercial educational Channel 218A for unoccupied and unapplied for Channel 209A at Las Cruces, NM, and the substitution of noncommercial educational Channel 219A for unoccupied and unapplied for Channel 218A at Deming, NM. Both channels can be allocated in compliance with the Commission's mileage separation requirements without the imposition of site restrictions. Mexican concurrence is required for both allotments since Las Cruces and Deming are located within 320 kilometers of the U.S.-Mexican border.

DATES: Comments must be filed on or before February 23, 1987, and reply comments on or before March 10, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or their counsel or consultant, as follows: Audrey Marion Hardman, Chairman, ASMNMU Publications and Communications Board, Box CC, Las Cruces, New Mexico 88003 (petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-475 adopted December 4, 1986 and released December, 31, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in

Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-643 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-455, RM-5088, RM-5337]

Radio Broadcasting Services; Florida and Alabama

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two separate petitions for rule making. The first, filed by Crestview Broadcasting Company, licensee of Station WAAZ-FM, Crestview, Florida, seeks to substitute Channel 284C2 for Channel 285A, and to modify its license to specify the Class C channel. Additionally, Channel 262A is proposed as a substitute for unused Channel 284A at Andalusia, Alabama, to accommodate the Crestview upgrade. The second petition, filed by Stewart Marsh and Virgle Leon Strickland, proposes to allot Channel 262A to Brantley, Alabama, and to substitute Channel 279A for Channel 284A at Andalusia.

DATES: Comments must be filed on or before February 23, 1987, and reply comments on or before March 10, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition in filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Kenneth E. Satten, Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, Washington, DC 20006 (Counsel for Crestview Broadcasting Company); Virgle Leon Strickland, P.O. Box 116, Enterprise, Alabama 36331 (Petitioner for Brantley, Alabama); Miller and Fields, P.C. 1019—19th Street, NW., P.O. Box 33003, Washington, DC 20033 (Attorney for Companion Broadcasting Service, Inc.) (Channel 284A)); Michael Purnell, Jackson-Purnell Broadcasting Co., P.O. Box 53, Red Level, Alabama 36474 (applicant for Channel 284A).

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-455, adopted November 19, 1986, and released December 31, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-639 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-479, RM-5505]

Radio Broadcasting Services; Bismarck, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to allocate Channel 254 to Bismarck, North Dakota, as the community's fourth local FM service, at the request of BDF Broadcasting, Inc. Channel 254 can be allocated in compliance with the Commission's spacing requirements without a site restriction. Canadian concurrence is required.

DATES: Comments must be filed on or before February 20, 1987, and reply comments on or before March 9, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Matthew H. McCormick, Reddy, Begley and Martin, 2033 M Street, NW., Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, (202) 634-6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-479, adopted December 4, 1986, and released December 31, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-644 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-474, RM-5438]

Radio Broadcasting Services; Marietta, OH and Ravenswood, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Employee Owned Broadcasting Corp., proposing the substitution of FM Channel 271B1 for Channel 271A at Marietta, Ohio and the modification of license for Station WEYQ-FM to specify operation of the new frequency. The proposal also requires the substitution of Channel 291A for Channel 272A at Ravenswood, West Virginia in order to accomplish the Marietta proposal.

DATES: Comments must be filed on or before February 19, 1987, and reply comments on or before March 6, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: J. Dominic Monahan, Esquire, Brian E. Keating, Esquire, Dow, Lohnes & Albertson, 1255 23rd Street, NW., Suite 500, Washington, DC 20037 (Counsel to petitioner); and Employee Owned Broadcasting, 910 Penn Post Office Box 329, Marietta, OH 45750 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-474, adopted December 4, 1986, and released December 31, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Ralph A. Haller,

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

[FR Doc. 87-645 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-476, RM-5567]

Radio Broadcasting Services; Greenwood, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to allocate Channel 278A to Greenwood, South Carolina, as the community's second local commercial FM service at the request of United Community Enterprises, Inc. The channel can be allocated in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.

DATES: Comments must be filed on or before February 20, 1987, and reply comments on or before March 9, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Laurence J. Bernard, Jr., Esq., Ward & Mendelsohn, P.C., 1100—17th St., NW., Suite 900, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, (202) 634-6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-476, adopted December 4, 1986, and released December 31, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-646 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-452, RM-5448]

Radio Broadcasting Services; Sherman, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by KTXO, Inc., proposing the allotment of Channel 281A to Sherman, Texas, as that community's second FM service. A site restriction of 7.6 kilometers (4.7 miles) northeast of Sherman is required.

DATES: Comments must be filed on or before February 23, 1987, and reply comments on or before March 10, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows:

Vincent J. Curtis, Jr., Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-452, adopted November 14, 1986, and released December 31, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Ralph A. Haller,

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

[FR Doc. 87-647 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-472, RM-5581]

Television Broadcasting Services; Tamuning, GU

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Guahan Airwaves Corporation which proposes to assign UHF television Channel 14 to Tamuning, Guam, as its first television service.

DATES: Comments must be filed on or before February 19, 1987, and reply comments on or before March 6, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Guahan Airwaves Corporation, c/o George H. Shapiro, Arent, Fox, Kintner, Plotkin and Kahn, 1050 Connecticut Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-472, adopted November 28, 1986, and released December 31, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-649 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-478, RM-5484]

Radio Broadcasting Services; Seymour, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by The Venture Group, Inc., licensee of Station KSEY-FM, Channel 232A Seymour, TX proposing the substitution of Channel 231C2 for Channel 232A and modification of its license to specify the new channel. The proposal could provide a first wide area coverage station at Seymour. A site restriction of 10.3 kilometers (6.4 miles) west of the community is required.

DATES: Comments must be filed on or before February 20, 1987, and reply comments on or before March 9, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Eugene T. Smith, Esquire, 715 G Street, SE., Washington, DC 20003.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-478 adopted December 4, 1986, and released December 31, 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., Suit 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-648 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 81

[PR Docket No. 86-2; FCC 86-540]

Subsidiary Communications in the Maritime Service

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document declines to adopt proposed rules to permit on a subsidiary basis the transmission of messages between public coast stations and land vehicles. This action is taken because public coast stations utilize frequencies allocated internationally to the Maritime Service and this safety service could suffer from harmful interference. The effect of this action is to retain the prohibition of such messages.

FOR FURTHER INFORMATION CONTACT: Robert DeYoung, (202) 632-7175.

SUPPLEMENTARY INFORMATION: The Proposed Rule in this proceeding was published on February 5, 1986, 51 FR 4525.

This is a summary of the Commission's Report and Order, PR Docket 86-2, adopted on December 9, 1986 and released on December 31, 1986.

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

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 87-637 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 52, No. 8
Tuesday, January 13, 1987

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

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

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: International Trade Administration
Title: Export Trading Companies Contact Facilitation Service
Form number: Agency—ITA-4094P; OMB—0625-0120
Type of request: Extension of the expiration date of a currently approved collection
Burden: 5,500 respondents; 733 reporting hours
Needs and uses: The purpose of the Export Trading Company Act of 1982 is to increase United States exports of products and services. Many U.S. firms have never exported because of lack of knowledge of the international marketplace. The Contact Facilitation Service is designed to facilitate contact between producers of exportable goods and firms offering export trade services.
Affected public: State and local governments; businesses or other for-profit institutions; non-profit institutions; small businesses or organizations
Frequency: On occasion and once every year-and-a-half
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Donald Arbuckle, 395-7340

Agency: International Trade Administration
Title: Information Services Order Form
Form number: Agency—ITA-4096P; OMB—0625-0143
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 20,500 respondents; 6,750 reporting hours
Needs and uses: U.S. and Foreign Commercial Service District Offices offer their clients certain services to enable their clients to begin exporting or to expand present exporting efforts. Specific information is needed in order to determine the clients interests and needs.
Affected public: State and local governments; businesses or other for-profit institutions; federal agencies; small businesses or organizations
Frequency: On occasion
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Donald Arbuckle, 395-7340

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 Donald Arbuckle, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: January 6, 1987.

Ed Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 87-677 Filed 1-12-87; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal 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: National Marine Sanctuary
Form number: Agency—N/A; OMB—0648-0141
Type of request: Extension of the expiration date of a currently approved collection
Burden: 24 respondents; 42 reporting hours
Needs and uses: Persons seeking to conduct otherwise prohibited activities in marine sanctuaries may request a permit. The information from the request is used to determine whether the proposed activity is consistent with the management goals of the sanctuary.
Affected public: Individuals; state or local governments; businesses or other for-profit institutions; federal agencies or employees; non-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Donald Arbuckle 395-7340.

Copies of the above information collection proposal 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 collection should be sent to Donald Arbuckle, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: January 6, 1987.

Ed Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 87-678 Filed 1-12-87; 8:45 am]

BILLING CODE 3510-(CW)

International Trade Administration

[A-588-014]

Tuners (of the Type Used in Consumer Electronic Products) From Japan; Preliminary Results of Antidumping Duty Administrative Review, Tentative Determination To Revoke in Part, and Intent To Revoke in Part

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review, tentative determination to revoke in part, and intent to revoke in part.

SUMMARY: In response to requests by three manufacturers and/or exporters, the Department of Commerce has conducted an administrative review of

the antidumping finding on tuners (of the type used in consumer electronic products) from Japan. The review covers three manufacturers and/or exporters of this merchandise to the United States and generally the period December 1, 1981 through November 30, 1985. The review indicates no dumping margins during the period.

As a result of the review, the Department has tentatively determined to revoke the finding with respect to Shin-Shirasuna Electric Corporation, and intends to revoke the finding with respect to Alps Electric Co., Ltd. and Mitsumi Electric Co., Ltd.

Interested parties are invited to comment on these preliminary results, tentative determination to revoke in part, and intent to revoke in part.

EFFECTIVE DATE: January 23, 1987.

SUPPLEMENTARY INFORMATION:

Background

On June 22, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 25652) a tentative determination to revoke in part the antidumping finding on tuners (of the type used in consumer electronic products) from Japan (35 FR 18914, December 12, 1970). On August 6, 1984, the Department published in the **Federal Register** (49 FR 31316) the final results of its last administrative review of the antidumping finding. We began this review of the finding under our old regulations. After the promulgation of our new regulations, three manufacturers and/or exporters requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published notices of initiation on January 21, 1986 (51 FR 2747) and May 30, 1986 (51 FR 19580). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that Administrative review.

Scope of the Review

Imports covered by the review are shipments of tuners (of the type used in consumer electronic products) consisting primarily of television receiver tuners and tuners used in radio receivers such as household radios, stereo and high fidelity radio systems, and automobile radios. They are virtually all in modular form, aligned and ready for simple assembly into the consumer electronic product for which they were designed. The term "consumer electronic products" includes television sets, radios, and other electronic products of the type commonly bought at retail by household consumers, whether or not used in or around the household. Excluded are complete stereophonic tuners which are consumer products themselves, but not excluded are modular-type stereophonic tuners. Tuners covered by the finding are currently classifiable under items 685.0200 and 685.3277 of the Tariff Schedules of the United States Annotated.

The review covers three manufacturers and/or exporters of Japaneses tuners to the United States and generally the period December 1, 1981 through November 30, 1985.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price ("ESP"), both as defined in section 772 of the Tariff Act, as appropriate. Purchase price was based on the f.o.b., packed price to unrelated purchases in the United States. Exporter's sales price was based on the f.o.b. U.S. warehouse, packed price to the first unrelated purchaser in the United States. Where applicable, we made adjustments for inland freight, ocean freight, insurance, foreign shipping charges, sales commissions to unrelated parties, U.S. import duties, U.S. brokerage charges, and the U.S. subsidiary's selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandies were sold in the home market to provide as basis for comparison. Home market price was based on the delivered, packed price to unrelated purchasers in Japan. We made adjustments, where applicable, for shipping charges, inland freight, and differences in credit, advertising, packing, and the physical characteristics of the merchandise. We made further adjustments for indirect selling expenses to offset U.S. selling expenses for ESP calculations. No other adjustments were claimed or allowed.

Preliminary Results of the Review, Tentative Determination To Revoke in Part, and Intent To Revoke in Part

As a result of our comparison of United States price to foreign market value we preliminarily determine that no margins exist during the periods indicated:

Manufacturer/ Exporter	Time period
Alps Electric Co., Ltd.	12/01/82-06/22/84
Mitsumi Electric Co., Ltd.	[1] 12/01/82-06/22/84
Shin-Shirasuna Corp.	[1] 12/01/81-11/30/85

[1] No Shipments during the period.

Shin-Shirasuna Corp. has requested that we revoke the antidumping finding with respect to that firm. Shin-Shirasuna did not export Japanese tuners (of the type used in consumer electronic products) to the United States during the entire review period. As provided for in § 353.54(e) of the Commerce Regulations, Shin-Shirasuna has agreed in writing to an immediate suspension of liquidation and reinstatement in the finding if circumstances develop which indicate that Japanese tuners (of the type used in consumer electric products) exported to the United States by Sin-Shirasuna are being sold by that firm at less than fair value.

Therefore, we tentatively determine to revoke the antidumping finding on Japanese tuners (of the type used in consumer electronic products) with respect to Shin-Shirasuna. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise manufactured and exported by Shin-Shirasuna Corp. and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

As a result of our review the Department also intends to revoke the antidumping finding with respect to Alps Electric Co., Ltd. and Mitsumi Electric Co., Ltd. Alps made all sales at not less than fair value and Mitsumi made no sales to the United States during the period December 1, 1982 through June 22, 1984, the date of our tentative determination to revoke with respect to these firms. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise manufactured and exported by Alps or Mitsumi and entered, or withdrawn from warehouse, for consumption on or after June 22, 1984.

Interested parties may submit written comments on these preliminary results, tentative determination to revoke in part, and intent to revoke in part within 21 days of the date of publication of this notice and may request disclosure and/or a hearing within 5 days of the date of publication. Any hearing, if requested, will be held 21 days after the date of

publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to be Customs Service.

Further, in accordance with section 751(a)(1) of the Tariff Act, no cash deposit of estimated antidumping duties shall be required for Shin-Shirasuna. For any future shipments from the remaining known manufacturers and/or exporters not covered in this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of those firms.

For any entries of this merchandise from a new exporter, whose first shipments occurred after November 30, 1985 and who is unrelated to any reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Japanese tuners (of the type used in consumer electronic products) entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

The administrative review, tentative determination to revoke in part, intent to revoke in part, and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1) and (c)) and § 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Dated: January 9, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-799 Filed 1-12-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-301-601]

Suspension of Countervailing Duty Investigation; Miniature Carnations from Colombia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving miniature carnations from Colombia. The basis for the suspension is an agreement by the Colombian producers and exporters responsible for more than 85 percent of miniature carnation exports to the United States to eliminate or offset completely all benefits provided by the government of Colombia.

EFFECTIVE DATE: January 13, 1987.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen, Jessica Wasserman or Gary Taverman, Office of Investigations, or Richard Moreland, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-0167, 377-1442, 377-0161 or 377-2786.

SUPPLEMENTARY INFORMATION:

Case History

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing miniature carnations. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that producers or exporters in Colombia of miniature carnations receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (the Act).

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, 1986, we initiated an investigation (51 FR 21960, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested an extension of the period within which a preliminary countervailing duty determination must be made pursuant to section 703(c)(1)(A) of the Act. On July 3, 1986, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Colombia is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise materially injure, or threaten material injury to, a U.S. industry.

On June 20, 1986, we presented a questionnaire to the government of Colombia in Washington, DC, concerning petitioner's allegations. We received responses on July 10 and July 31, 1986, from the government of Colombia and from the three companies that represent over 60 percent of the value of exports of the subject merchandise to the United States during the review period. Supplemental information was received throughout the course of the investigation.

Because of the extension of the preliminary determination, we were able to verify the responses to the questionnaires prior to the preliminary determination. Verification was conducted in Colombia from September 17-26, 1986.

On August 11, 1986, we received a letter on behalf of Asocolflores challenging in the standing of The Floral Trade Council and requesting dismisal of the petition. As we have previously stated, *see, e.g., Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada,* (51 FR 10041, March 24, 1986), neither the Act nor the Commerce Regulations requires a petitioner to establish affirmatively that it has the support of a majority of a particular industry. The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case. Where domestic industry members opposing an investigation provide a clear indication that there are grounds to doubt a petitioner's standing, the Department will review whether the opposing parties do, in fact, represent a major proportion of the domestic industry. In this case, we have not received any opposition from the domestic industry.

We issued an affirmative preliminary determination on October 20, 1986 (51 FR 37934, October 27, 1986) and stated that there was reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of the Act were being provided to producers or exporters in Colombia of miniature carnations. We preliminarily determined that the estimated net bounty or grant was 2.22 percent *ad valorem* and that the bonding rate was 1.09 percent *ad valorem.* The programs preliminarily determined to confer bounties or grants were:

- Tax Reimbursement Certificate Program (CERT);
- PROEXPO Working Capital Loans under Resolutions 59 and 22;
- PROEXPO Capital Investment Loans under Decree 2366;

• Duty and Tax Exemptions under Plan Vallejo.

We directed the U.S. Customs Service to suspend liquidation of all entries of miniature carnations fom Colombia that are entered or withdrawn from warehouse, for consumption and to require a cash deposit or the posting of a bond on entires of these products in the amount equal to the bonding rate.

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. We held a public hearing on December 3, 1986. On December 5, 1986, we initialled a proposed suspension agreement with respect to miniature carnations from Colombia with Asocolflores, the association which represents producers and exporters or virtually all exports of the subject merchandise to the United States. Petitioner and respondents have had 30 days in which to submit comments regarding this proposed suspension agreement. Their comments have been received and taken into consideration.

Scope of the Investigation

The products covered by this investigation are miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS).

Petitioner's Comments

Comment 1: Petitioner argues that acceptance of a suspension agreement with respect to unfairly traded miniature carnations from Colombia is impermissible as a matter of law. They contend that the agreement neither guarntees that all subsidies will be eliminated, nor can it be effectively monitored. Moreover, they contend that since the investigation is nearly completed, this agreement does not offer any savings in time or expense to the Department. For these reasons, the public interest will not be served. Petitioner submits that the experience with the suspension agreement in *Roses and other Cut Flowers from Colombia: Suspension of Investigation* (48 FR 2158, January 18, 1983) is sufficient reason not to embark on another suspension agreement involving a similar product and indentical issues. Petitioner contends that, in that case, the government of Colombia and the exporters have managed to circumvent the agreement by replacing a program renounced under the suspension agreement by a similar program.

DOC Position: We disagree. The main purpose of the statute is to eliminate unfair trade practices. The Suspension Agreement will eliminate all countervailable bounties or grants to producers or exporters of the subject merchandise from Colombia to the United States, thus; ending any unfair practices. As for the question of monitoring, the Department has been able to monitor effectively the Suspension Agreement with regard to *Roses*. In fact, we recently published a notice of final results of countervailing duty administrative review and revised suspension agreement on *Roses* in which we determined that Colombian cut flower exporters have complied with the terms of the earlier Suspension Agreement (51 FR 49930, Dercember 15, 1986). For these reasons, the signing of this Suspension Agreement is in the interest of the public and all parties.

Comment 2: Petitioner argues that Colombian exports of flowers to countries other than the United States still receive a much higher CERT rebate than rebates of exports of flowers to the United States. They claim that this situation creates an obvious incentive to transship flowers to the United States through other countries, and contend there is no indication as to how the agency can effectively monitor transshipment.

DOC Position: While the possibility of transshipment does exist, we have no evidence to date on the record that it is occurring. The suspension agreement applies to all miniature carnations exported directly, *or indirectly*, from Colombia. In addition, section III.B.I. of the Agreement requires the producers and exporters to notify the Department if they transship miniature carnations through third countries. We are satisfied that the appropriate provisions of the agreement will serve as a check on potential transshipments.

Comment 3: Petitioner argues that the proposed agreement is not in the interest of the domestic industry. The flower growers will lose the protection from unfair trade practices afforded by the general statutory scheme of suspension of liquidation and administrative review. As a result, if Colombian flower growers receive any new subsidies, or if previous programs continue in violation of the agreement, imports of unfairly traded flowers will remain unchecked, with no offsetting duties imposed.

DOC Position: We disagree. The suspension agreement requires that the flower producers and exporters renounce all countervailable bounties and grants to exports of the subject merchandise to the United States. This renunciation, in effect, negates all unfair trade practices without having to resort to the imposition of tariffs to protect the domestic industry. We will monitor the Agreement to ensure that its terms are being strictly observed and we have the authroity to terminate the agreement if, in the future, we determine that its terms are being violated.

Suspension of Investigation

The Department has consulted with the petitioner and has considered comments submitted with respect to the proposed suspension agreement. We have determined that the Agreement will eliminate or offset completely the amount of the estimated net bounty or grant with respect to the subject merchandise exported directly or indirectly to the United States, that the Agreement can be monitored effectively and that the Agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the Agreement are set forth in Appendix A to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspenion of liquidation of all entries of miniature carnations from Colombia entered or withdrawn from warehouse, for consumption, effective October 20, 1986, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination: Miniature Carnations from Colombia" (51 FR 37934, October 27, 1986) is hereby terminated. Any cash deposits on entries of the subject merchandise from Colombia pursuant to that preliminary affirmative determination shall be refunded and any bonds shall be released.

Notwithstanding the Agreement, the Department will continue the investigation, if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act [19 U.S.C. 1671c(f)(1)(A)].

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 5, 1987.

Suspension Agreement

Pursuant to the provisions of section 704 of the Tariff Act of 1930 ("the Act") and § 355.31 of the Department of Commerce Regulations, the Department of Commerce ("the Department") and the producers and exporters of minature carnations in Colombia listed in Appendix I hereto, (hereinafter "the producers as exporters"), enter into the following Suspension Agreement ("the Agreement"). In consideration of this Agreement, the Government of Colombia (through the Central Bank of Colombia, PROEXPO and any other

relevent adminstering authorities) agrees to take such steps necessary to ensure that the renunciation of beneifits by the producers and exporters is implemented and effectively monitored, and that the Department is informed of any other companies, that are exporting, or begin exporting to the United States, either directly or indirectly, miniature carnations as defined by paragraph I below. On the basis of the foregoing, the Department shall suspend its countervailing duty investigation initiated on June 10, 1986 (51 FR 21960) with respect to miniature carnations from Colombia, subject to the terms and conditions set forth below.

I. Scope of the Agreement

The agreement applies to fresh cut miniature (spray) carnations (miniature carnations) exported directly or indirectly from Colombia, as currently provided for in item 192.17 of the Tariff Schedules of the United States.

II. Basis of the Agreement

The producers and exporters listed in Appendix I, accounting for more than eighty-five (85) percent of the total exports of miniature carnations from Colombia to the United States, agree as follows:

A. The producers and exporters will not apply for, or receive, tax certificates or other rebates, remissions or exemptions under the Tax Reimbursement Certificate program (CAT/CERT) or any other provision of law that constitute, as determined by the Department, an overrebate of indirect taxes on shipments of the subject products exported, directly or indirectly, from Colombia to the United States. The producers and exporters will return to the Central Bank of Colombia, as of the effective date of this Agreement, any unused certificates received on shipments to the United States.

B. The producers and exporters will not apply for, or receive, any short-term export financing provided by the Export Promotion Fund, PROEXPO (*e.g.*, Resolution 59 and Resolution 22 loans) and under any special government credit line for miniature carnations on or after the effective date of the Agreement, other than those offered at non-preferential terms and at or above the most recent short-term benchmark interest rate determined by the Department in this proceeding or the countervailing duty proceeding on roses and other cut flowers from Colombia. By the thirtieth day from the effective date of this Agreement, the producers and exporters shall repay, or begin negotiating the refinancing of, any such financing outstanding as of the effective date of this Agreement on non-preferential terms and at or above the most recent short-term benchmark interest rate determined by the Department in this proceeding. The repayment or refinancing shall be completed no later than ninety days after the effective date of this Agreement.

C. The producers and exporters will not apply for, or receive, any long-term financing provided by the Export Promotion Fund PREXPO (*e.g.*, Resolution 2366 loans and Resolution 14 loans) and under any special government credit line for miniature carnations, other than those offered on non-preferential terms and at or above the most recent long-term benchmark interest rate determined by the Department in this proceeding or the countervailing duty proceeding on roses and other cut flowers from Colombia. Any such financing outstanding as of the effective date of this Agreement shall be repaid, or refinanced, on non-preferential terms and at or above the most recent long-term benchmark interest rate determined by the department, by the original due date of the loan, or by the sixtieth day from the effective date of this Agreement, whichever comes first. Any such repayment must be consistent with Colombian bankruptcy laws and procedures.

D. The producers and exporters will not apply for, or receive, any benefits from duty and tax exemptions for capital equipment under the Plan Vallejo.

E. The producers and exporters shall notify the Department in writing prior to applying for approval for any countertrade transaction, and prior to applying for any benefits from the Export Credit Insurance program with respect to exports of the subject products exported, directly or indirectly, to the United States.

F. The producers and exporters will not apply for, or receive, any bounties or grants on shipments of miniature carnations exported, directly or indirectly, from Colombia to the United States which are countervailable under the Act. Bounties or grants on exports of the miniature carnations to the United States include any which have been found or are likely to be found countervailable in any investigation, or review under section 751 of the Act, involving any product from Colombia, including bounties or grants which the Department determines may apply to other products or exports to other destinations that cannot be segregated as applying solely to such other products or exports.

G. The producers and exporters shall notify the Department in writing at least thirty days prior to applying for or accepting any new benefit which they have reason to believe is, or is likely to be, a countervailable bounty or grant on shipments of miniature carnations exported, directly or indirectly, from Colombia to the United States.

H. If any program under which benefits have been received in the past, and which is included in this Agreement, is found in this proceeding not to constitute a bounty or grant under the Act in the final determination or the final results of an administrative review of this Agreement under section 751 of the Act, then the renunciation of the benefits under the program will no longer required.

III. Monitoring of the Agreement

A. The producers and exporters, acting through the Asociacion Colombiana de Exportadores de Flores (Asocolflores) agree to supply any information and documentation which the Department deems necessary to demonstrate that there is full compliance with the terms of this Agreement. The producers and exporters also agree to provide copies of all such documents as the Department deems necessary in connection with verifying full compliance with the terms of this agreement.

B. The producers and exporters, acting through Asocolflores, will notify the Department if they:

1. Transship miniature carnations through third countries to the United States;

2. After their position with respect to any terms of the Agreement; or

3. Apply for, or receive, directly or indirectly, the benefits of the programs described in Section II for the manufacture or export or miniature carnations exported, directly or indirectly, from Colombia to the United States.

C. The Department will request information and may perform verifications periodically pursuant to administrative reviews conducted under section 751 of the Act, in addition to exercising its rights under paragraphs III.A and B, above.

D. The producers and exporters agree to permit such verification and data collection as deemed necessary by the Department in order to monitor this Agreement.

E. The producers and exporters, through Asocolflores, agree to provide to the Department within 45 days from the

end of each calendar quarter, beginning with the quarter ending March 31, 1987, all information deemed by the Department to be necessary to maintain this agreement. The information shall include, but not be limited to:

1. A certification that the Colombian producers and exporters of miniature carnations have not applied for or received, directly or indirectly, any countervailable benefit on miniature carnations exported, directly or indirectly, from Colombia to the United States.

2. A certification that the Colombian producers and exporters of miniature carnations continue to be in full compliance with this Agreement;

3. The volume and value of miniature carnations exported, directly or indirectly, to the United States during the calendar quarter just completed.

F. In order to assure compliance with the terms and scope of this Agreement, the Colombian producers and exporters of miniature carnations agree to maintain separate or identifiable invoicing and documentation of miniature carnations exported, directly or indirectly, to the United States.

IV. General Provisions

A. In entering into this Agreement, the producers and exporters do not admit that any of the programs investigated constitute countervailable benefits within the meaning of the Act of the GATT Subsidies Code.

B. The provisions of section 704(i) shall apply if:

1. The producers and exporters who are signatories to this Agreement withdraw from or refuse to participate in this Agreement; or

2. The Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 704 of the Act.

C. If the Department learns of any new producers or exporters to the United States of miniature carnations, it may attempt to negotiate an agreement with the additional producers or exporters.

D. Additionally, should exports to the United States by the producers and exporters account for less than 85 percent of miniature carnations imported, directly or indirectly, into the United States from Colombia, the Department may attempt to negotiate an agreement with additional producers or exporters or may terminate this Agreement and reopen the investigation under § 355.32 of the Commerce Regulations. If reopened, the investigation will be resumed for all producers and exporters of miniature carnations as if the affirmative preliminary determination were made on the date that the Department terminates this Agreement.

E. If, pursuant to section 704(g) of the Act, the investigation is continued after the notice of suspension of investigation, the application of this Agreement shall be consistent with the final determination issued in the continued investigation.

V. Effective Date

The effective date of this Agreement is the date of publication in the **Federal Register.** The provisions of this Agreement apply to exports on or after the effective date.

Signed on this 5th day of January, 1987.

Thomas A. Rothwell, Jr.,

Heron, Burchette, Ruckert, & Rothwell.

James M. Lyons,

Heron, Burchette, Ruckert & Rothwell.

I have determined pursuant to section 704(b) of the Act that the provisions of Section II eliminate or offset completely the benefits that the Government of Colombia is providing with respect to miniature carnations exported, directly or indirectly, from Colombia to the United States. Furthermore, I have determined that this suspension agreement is in the public interest, that the provisions of Sections III and the attached undertaking of the Government of Colombia ensure that this Agreement can be monitored effectively, and that this Agreement and attached undertaking meet the requirements of section 704(d) of the Act.

Dated: January 5, 1987.

U.S. Department of Commerce.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

Appendix I

List of Producers and Exporters to the United States

1. Pincon Olga Paulina
2. Floroamerica
3. Jardines Bacata
4. Florex S.A.
5. Floresa
6. Plantas Ornamentales
7. Claveles Colombianos
8. Agrodex
9. Las Amalias
10. Pompones
11. Flores Aleaya
12. Flores de Funza
13. Universal de Flores
14. Flores del Campo
15. Hortio de la Sabana
16. Flores Tiba S.A.
17. Inv. Santa Rita
18. Agroind. de Rio Frio
19. Agricola Los Gaques
20. Flores Colon Ltda.
21. Inv. Santa Rosa A.R.W.
22. Agricola Los Arboles
23. Flores Internacional
24. Flores Aguila
25. Flores del Bosque
26. Flores de Los Amigos
27. Daflor Ltda.
28. Bellavista
29. Fores Altamira

[FR Doc. 87-600 Filed 1-12-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-223-601]

Suspension of Countervailing Duty Investigation; Certain Fresh Cut Flowers From Costa Rica

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving certain fresh cut flowers from Costa Rica. The basis for the suspension is an agreement to eliminate or offset completely all benefits provided by the Government of Costa Rica that we find to constitute bounties or grants on exports of certain fresh cut flowers to the United States.

EFFECTIVE DATE: January 13, 1987.

FOR FURTHER INFORMATION CONTACT: Steven Morrison or Barbara Tillman, Office of Investigations, or Richard Moreland, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1248, 377-2438, or 377-2786.

SUPPLEMENTARY INFORMATION:

Case History

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing certain fresh cut flowers. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that producers or exporters in Costa Rica of certain fresh cut flowers receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (the Act).

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, we initiated an investigation

(51 FR 21954, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested an extension of the period within which a preliminary countervailing duty determination must be made pursuant to section 703(c)(1)(A) of the Act. On July 3, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Costa Rica is not a "country under the agreement" within the meaning of section 701(b) of the Act, as amended. Therefore, sections 303(a)(1) and 303(b) of the Act apply to this investigation. The merchandise being investigated is nondutiable. However, there is no "international obligation" within the meaning of section 303(a)(2) of the Act which requires an injury determination for nondutiable merchandise from Costa Rica. Therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise materially injure, or threaten material injury to, a U.S. industry.

On June 20, 1986, we presented a questionnaire to the Government of Costa Rica concerning petitioner's allegations. We received the Government and company responses on July 11 and 14 and August 4 and 5. We asked supplemental questions on August 17. Supplemental response were received on September 4, 5 and 17.

Because of the extension of the preliminary determination, we were able to verify the respnses to the questionnaires prior to the preliminary determination. Verification was conducted in Costa Rica from September 22–26, 1986.

On August 11, 1986, we received a letter on behalf of American Flower Corporation, S.A., challenging the standing of The Floral Trade Council and requesting dismissal of the petition. As we have previously stated, see e.g., *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada*, (51 FR 10041, March 24, 1986), neither the Act nor the Commerce Regulations requires a petitioner to establish affirmatively that it has the support of a majority of a particular industry. The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case. Where domestic industry members opposing an investigation provide a clear indication that there are grounds to doubt a petitioner's standing, the Department will review whether the opposing parties do, in fact, represent a major proportion of the domestic industry. In this case, we have not received any opposition from the domestic industry.

We issued an affirmative preliminary determination on October 20, 1986 (51 FR 37928, October 27, 1986). We preliminarily determined that there was reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of the Act were being provided to producers or exporters in Costa Rica of certain fresh cut flowers. We preliminarily determined that the estimated net bounty or grant was 19.54 percent *ad valorem*. The programs preliminarily determined to confer bounties or grants were:

- Tax Credit Certificates;
- Exporters' Exemptions of Taxes, Surcharges and Duties on Imports;
- Exporters' Tax Credits for Sales and Selective Excise Taxes on Domestic Purchases.

We directed the U.S. Customs Service to suspend liquidation of all entries of certain fresh cut flowers from Costa Rica that are entered or withdrawn from warehouse, for consumption and to require a cash deposit or the posting of a bond on entries of these products in the amount equal to the net bounty or grant.

On October 3, 8, 14, and 15, November 26 and December 1, we received additional data, information and translations, in response to questions arising during verification. Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. We held a public hearing on December 3, 1986.

On December 5, 1986, we initialled a proposed Suspension Agreement with respect to certain fresh cut flowers from Costa Rica. Petitioner and respondents have had 30 days during which to submit comments regarding the proposed Suspension Agreement. Their comments have been received and taken into consideration.

Scope of the Investigation

The products covered by this investigation are miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS) and standard carnations and pompom chrysanthemums, currently provided for in item 192.21 of the TSUS.

Petitioner's Comments

Comment 1: Petitioner argues that a Suspension Agreement should not be undertaken because the Department cannot adequately monitor the proposed Agreement. It notes that the Department does not have verified information on the use of programs by most of the producers and says that the Department cannot rely on the producers' representations. The lack of information about these other companies and the possibility of their using other programs creates suspicions that all available programs may not be covered by the Agreement.

DOC Position: In the negotiation of this Suspension Agreement, we paid particular attention to our ability to monitor the use of programs and compliance with the terms of the Agreement. Signatories to the Agreement are required to renounce all programs which could possibly confer countervailable benefits. The Agreement requires the flower growers and the Government of Costa Rica to maintain records in such a way that compliance can be easily monitored.

As to the possiblity of undiscovered programs, we note that the Suspension Agreement requires Costa Rican producers and exporters of certain fresh cut flowers not to apply for or receive any bounties or grants which are countervailable under the Act. We have no reason to believe that any of the signatories, whether verified or not, undertake this Agreement in bad faith.

Comment 2: Petitioner notes that an integral part of the Agreement involves undertakings by the Government of Costa Rica. However, the Government of Costa Rica does not appear to keep adequate sales and export records or statistics to fulfill its responsibilities under the Agreement. Given these circumstances, the Department cannot adequately monitor the Agreement.

Petitioner also notes that future changes in the tax credit certificate (CAT) program, which the Government of Costa Rica described in its response to the Department's questionnaire, make it possible that this program will be used as a tool to create new or augmented benefits.

DOC Position: Although the Government of Costa Rica has agreed to undertake certain responsibilities as part of this Agreement, these responsibilities do not require the Government of Costa Rica to supply data that it does not already collect. We have been specific about what records Government of Costa Rica must keep for future verifications. Thus, we have diminished monitoring uncertainties. Sales and export statistics will be supplied by the producers of certain fresh cut flowers to their trade

association and by their association to the Department.

A primary undertaking of the Goverment of Costa Rica is to notify the Department if producers or exporters of the subject merchandise apply for or receive, directly or indirectly, any new or substitute benefits on exports of the subject merchandise to the United States. We believe that this provision, coupled with requirements on exporters not to apply for or accept such benefits, will prevent companies from receiving additional or enhanced benefits under the programs. It will also cover any changes in the CAT program that might affect this Agreement.

Comment 3: Petitioner argues that Congress intended suspension agreements to permit rapid resolutions to unfair trade cases. However, in this case, the agreement leads to a resolution contemporaneous with the due date of the final determination. Because Congress intended suspension agreements to be unusual events, because agreements have often been used to evade the trade laws, and because this agreement does not offer any real savings in time or expense to the Department, petitioner argues that the department should instead complete its investigation and issue a final affirmative determination.

DOC Position: Except where there is agreement to cease exportation, it is usually not possible to sign a suspension agreement prior to our verification. Verification is essential to assure that all programs are dealt with appropriately in the suspension agreement itself. Furthermore, all deadlines associated with the suspension agreement process have been met, including the date for initialling an agreement, and notifying petitioner. In addition, all parties have had thirty days during which to file comments. Given that verification is an important element in the suspension agreement process and that all due dates have been met, we consider that this procedure affords as rapid a resolution as possible of this countervailing duty investigation.

With respect to the peititioner's comment that suspension agreements have been used to evade the trade laws, we recognize that not all suspension agreements that the Department has negotiated have been successful. This is particularly true of earlier agreements negotiated when the Department had little experience in this area. However, in recent agreements we have been able to correct the problems that existed in earlier agreements. Also, as the petitioner points out, the Department has terminated or renegotiated those agreements that it no longer considers to be in the public interest. By these actions, we have demonstrated to suspension agreement signatories that we will not allow the terms of an agreement to be circumvented.

Finally, the Department agrees that suspension agreements should remain unusual actions. The last time the Department entered into a countervailing duty suspension agreement was over a year ago. In this case, the commitment of the Costa Rican flower growers to enter such an Agreement, together with the firm commitment of the Government of Costa Rica to support such an Agreement convinced us that this was the most appropriate resolution to this countervailing duty investigation.

Respondents' Comments

Comment 1: Respondents request that the Suspension Agreement be relaxed to allow companies to receive CATs after the effective date of the Agreement, for shipments of the subject merchandise to the United States made before the effective date of the Agreement.

DOC Position: In general, we determine that the benefit from a subsidy occurs when the cash flow from that subsidy takes place. Therefore, for this program, the benefit occurs when the company actually uses or sells its CAT and not at the time when it makes a shipment that eventually results in the receipt of a CAT. We note that in the preliminary determination we calculated the benefit from this program based on the amount received for CATs actually sold during the review period. Since the benefit from a CAT occurs when the CAT is used or sold, and not when the shipment is made on which the CAT is received, the Suspension Agreement requires the cut flower growers to give up all CATs after the effective date of the Agreement on shipments of the subject merchandise to the United States, regardless of when those shipments were made.

Comment 3: Respondents want to limit return of their outstanding tax credit certificates, CATs, to those issued for exports of the subject merchandise to the United States rather than those issued for exports of all merchandise as specified in the initialled Agreement.

DOC Position: We agree and accordingly have amended the Suspension Agreement so that it does not prohibit Costa Rican exporters from continuing to receive tax credit certificates for exports of merchandise that is entirely outside the scope of the Agreement. However, we believe that most outstanding tax credit certificates for shipments to the United States by cut flower exporters are at least partly for those fresh cut flowers included in the scope of the Agreement.

The Central Bank is not precluded by this Agreement from reissuing returned tax credit certification for merchandise entirely outside the scope of the Agreement. However, the respondents have the burden of documenting, through their written business records, that those exports to the United States receiving a reissued tax credit certificate are not covered at all by this Agreement.

Comment 3: The respondents argue that the complete elimination of accelerated depreciation for fresh cut flower producers is too broad. The restriction should be limited to accelerated depreciation available only to exporters. American Flower objects to the fact that accelerated depreciation cannot be used in connection with products not subject to investigation.

DOC Position: Since the only accelerated depreciation shedule now available in Costa Rica is the one provided to qualified exporters, the Agreement is limited to that accelerated depreciation program. However, since it is possible to create other accelerated depreciation programs which may confer bounties or grants, any creation of a new accelerated depreciation program is subject to the terms of sections II. G. and H of the Agreement.

In order to accept a suspension agreement, the law requires us to be satisfied that we can monitor it. For this reason, the Suspension Agreement requires companies to give up the accelerated depreciation program on all products. Accelerated depreciation covers capital investments such as tractors, buildings and parking lot pavement, not products such as cut flowers. We cannot measure how much of a capital asset is used for cut flowers exported to the United States, for cut flowers sold elsewere, for cut flowers unsold, and for other agricultural production. We are not aware of any way, short of producers non-use of this program, that we can monitor the Agreement as required by U.S. law. Therefore, we have entered this Agreement based on the condition that this program be completely renounced be exporters of fresh cut flowers to the United States.

Comment 4: American Flower observes that the Agreement calls for complete renunciation of the Certificate for Increasing Exports (CIEX) benefits and calls for complete non-use of the exemption from taxes, surcharges and duties on any imports not physically incorporated into exports. American Flower argues that these limitations are

broader than justified by the countervailing duty law.

DOC Position: The CIEX payments are used on increasing total exports in one year when compared to total exports in the preceding year. Since receipt of benefits under this program is based on comparisons of total exports, it is not possible to have a partial renunciation of the program.

The exemptions from import duties, taxes and surcharges applies to such items as sprinkler nozzles, plastic growing trays, chemicals and building materials. We cannot monitor the use of these products to assure that those receiving duty-free treatment are never used in connection with the production of cut flowers exported to the United States. Therefore, we require cut flower producers to give up these exemptions on all imports not physically incorporated into exports.

Comment 5: American Flower argues that the Suspension Agreement appears to prohibit use of Agrichemical Law (Law No. 7017), which is generally available to all agricultural producers.

DOC Position: The Department has made no determination whether the benefits of the Agrichemical Law confer bounties or grants or whether such benefits are limited in practice to exporters. We have not determined that the items imported by producers of fresh cut flowers and granted exemption under the Agrichemical Law are also given duty-free treatment when imported by other agricultural producers. If the benefits are available to and used by all agricultural producers, the Agreement would not prevent companies from receiving tax exemptions under this law. Since this law was enacted after our review period, its status will be examined in any administrative review of this Agreement that may be requested.

Comment 6: American Flower notes that the proposed Suspension Agreement appears to prohibit receipt of tax credits for domestic purchases of items that are physically incorporated into the exported product.

DOC Position: The Department has amended the initialled Suspension Agreement to allow tax credits for indirect taxes on domestic purchases that are physically incorporated into an exported product. However, we note that, as the program is currently structured, some products which quality for tax credits are not necessarily incorporated into an exported product. Therefore, certain fresh cut flower producers who take advantage of the domestic purchase tax credit for items physically incorporated into the exported product must prove, through their business records, that these products are indeed incorporated into exports and that they otherwise paid these taxes for domestic purchases not exported.

Comment 7: The respondents want the Department to change the wording of section II.G. of the Suspension Agreement, which now requires them not to apply for or receive bounties or grants which "might be" countervailable. They would prefer to limit it to benefits which are "likely to be" countervailable.

DOC Position: The Department enters this agreement in the full expectation that it will not discover new bounties or grants in subsequent administrative review. We prefer to use the more general "might be" words because we believe this wording will encourage resolution of questions before they become problems.

Comment 8: American Flower asks the Department to delete section III.E.2. of the Agreement requiring separate accounting treatment for Costa Rican income tax purposes of income from U.S. sales of the subject merchandise. American Flower claims this requirement is unnecessary and burdensome.

DOC Response: In negotiating with the respondents, we agreed that cut flower producers could use the exporter's income tax exemption for export earning, except for income from exports of the subject merchandise to the United States. In order to limit the renunciation of the program in this way, we must be certain that we can adequately segregate earnings from exports of cut flowers to the United States from other export earnings. Requiring companies to segregate these earnings for income tax purposes is the best way for us to meet this monitoring requirement.

Comment 9: American Flower notes that section III.A. of the Agreement imposes a reporting requirement on Acoflor, the flower producers' association, and section III.B. imposes a reporting requirement on the individual producers. American Flower suggests that all reporting be done by Acoflor.

DOC Position: The requirements of section III.A. are for commercial information about the fresh cut flower industry, periodically required to comply with terms of the agreement. This information will be routinely collected by Acoflor.

The individual exporters have the earliest knowledge of their own activities which may violate the terms of this Agreement. This is what the reporting requirements of section III.B. are directed to cover. If there are no potential violations by signatories of this Agreement, no reports under section III.B. will be required.

Suspension of Investigation

The Department has consulted with the petitioner and respondents and has considered their comments submitted with respect to the proposed Suspension Agreement. We have determined that the Agreement will eliminate or offset completely the amount of the estimated net bounty or grant on the subject merchandise exported directly or indirectly to the United States, that the Agreement can be monitored effectively, and that the Agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the Agreement, signed January 5, 1987 are set forth in Appendix A to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries of certain fresh cut flowers from Costa Rica entered or withdrawn from warehouse, for consumption, effective October 27, 1986, as directed in our notice of *Preliminary Affirmative Countervailing Duty Determination: Certain Cut Flowers from Costa Rica* (51 FR 37928, October 27, 1986) is hereby terminated.

Any cash deposit on entries of the subject merchandise from Costa Rica pursuant to that preliminary affirmative determination shall be refunded and any bonds shall be released.

Notwithstanding the Agreement, the Department will continue the investigation, if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act (19 U.S.C. 1671c(f)(1)(A)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

Appendix A—Suspension Agreement

Certain Fresh Cut Flowers From Costa Rica

Pursuant to the provisions of section 70 of the Tariff Act of 1930, as amended ["the Act"] and § 355.31 of the Department of Commerce Regulations, the Department of Commerce ("the Department") and the producers and exporters of certain fresh cut flowers ("cut flowers") in Costa Rica (hereinafter referred to collectively as the "Costa Rican producers and exporters") enter into the following

Suspension Agreement ("the Agreement"). In consideration of this Agreement, the Government of Costa Rica agrees to take such reasonable steps within its authority as are necessary to ensure that the renunciation of subsidies by the Costa Rican producers and exporters of cut flower is effectively monitored and implemented. On the basis of the foregoing, the Department shall suspend its countervailing duty investigation initiated on June 10, 1986 (51 FR 21954) with respect to cut flowers from Costa Rica, subject to the terms and conditions set forth below.

I. Scope of Agreement

The Agreement applies to cut flowers exported directly or indirectly from Costa Rica to the United States. Cut flowers means fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* ("TSUS"), and standard carnations and pompom chrysanthemums, currently provided for in item 192.21 of the TSUS. Hereafter, these will be referred to as the subject merchandise or cut flowers.

II. Basis of the Agreement

The Costa Rican producers and exporters of cut flowers, accounting for 100 percent of the total exports of the subject merchandise from Costa Rica to the United States, agree as follows:

A. The Costa Rican producers and exporters of cut flowers will not apply for or receive any benefits for shipments of the subject merchandise to the United States under the Tax Credit Certificates (CAT) program and will return to the Central Bank of Costa Rica, as of the effective date of this Agreement, any unused certificates received on shipments to the United States that include the subject merchandise.

B. The Costa Rican producers and exporters of cut flowers will not make use of accelerated depreciation in the calculation of income taxes.

C. The Costa Rican producers and exporters of cut flowers will not apply for, or receive, any income tax exemption for export earnings for income derived from exporters of the subject merchandise to the United States.

D. The Costa Rican producers and exporters of cut flowers will not apply for, or receive, any bounties or grants for increased exports of any product under the certificate for increasing exports (CIEX) program.

E. The Costa Rican producers and exporters of cut flowers will not apply for, or receive, any exemptions from taxes, surcharges and duties on any imports not physically incorporated into any exports.

F. The Costa Rican producers and exporters of cut flowers will not apply for, or receive, any exporters' credits for sales tax and selective excise tax on domestic purchases not physically incorporated into any exports.

G. The Costa Rican producers and exporters of cut flowers will not apply for or receive any bounties or grants which are countervailable under the Act. A bounty or grant which is "countervailable under the Act" is any bounty or grant which has been or might be found by the Department to be countervailable in any investigation or section 751 review under the Act.

H. The Costa Rican producers and exporters of cut flowers shall notify the Department, in writing, as least thirty days prior to applying for or accepting any new benefit which they have reason to believe is, or is likely to be, a countervailable bounty or grant on shipments of the subject merchandise, exported, directly or indirectly, from Costa Rica to the United States.

I. If any program, under which subsidies have been received in the past and which is included in this Agreement, is found in this proceeding not to constitute a countervailable benefit under the Act in the notice of suspension of investigation, the final determination or the final results of an administrative review of this Agreement under Section 751 of the Act, then the renunciation of the benefits under that program will no longer be required.

III. Monitoring of the Agreement

A. The Costa Rican producers and exporters of cut flowers, acting through the Asociacion Costarricense de Floricultores (Acoflor), a Costa Rican trade association with official, semi-public status, to which all Costa Rican producers and exporters of cut flowers belong, agree to supply the Department with any information and documentation which the Department deems necessary to demonstrate there is full compliance with the terms of this Agreement. The Costa Rican producers and exporters of cut flowers also agree to provide copies of all such documents as the Department deems necessary in connection with verifying full compliance with the terms of this Agreement.

B. Each producer and exporter of cut flowers will notify the Department if it:

1. Transships the subject merchandise through third countries to the United States;

2. Alters its position with respect to any terms of the Agreement; or

3. Applies for or receives, directly or indirectly, the benefits of programs described in paragraph II.

C. The Department will request information and may perform verifications periodically, pursuant to administrative reviews conducted under section 751 of the Act, in addition to exercising its rights under paragraphs III. A. and B. above.

D. The Costa Rican producers and exporters of cut flowers, through Acoflor, agree to provide to the Department within 45 days from the end of each calendar quarter, beginning with the quarter ending March 31, 1987, all information deemed by the Department to be necessary to maintain this Agreement. The information shall include, but not be limited to:

1. A certification that the Costa Rican producers and exporters of cut flowers have not applied for or received, directly or indirectly, any countervailable benefits on the subject merchandise exported, directly or indirectly, from Costa Rica to the United States;

2. A certification that the Costa Rican producers and exporters of cut flowers continue to be in full compliance with this Agreement;

3. The volume and value of cut flowers exported to the United States during the calendar quarter just completed.

E. In order to assure compliance with the terms and scope of this Agreement, the Costa Rican producers and exporters of cut flowers agree to implement the following measures:

1. Separate invoicing and documentation of the subject merchandise exported to the United States.

2. Separate accounting treatment for tax purposes of income derived from exports of the subject merchandise to the United States.

3. Maintenance of accounting records which track imports eligible for tax and duty exemptions, and domestic purchases eligible for tax credits, on items physically incorporated into exports of cut flowers. These accounting records should also demonstrate that taxes and duties have been paid on imports, and tax credits have not been received on the same domestic purchase when used for domestic sales or on non-physically incorporated inputs.

IV. General Provisions

A. In entering into this Agreement, the Costa Rican exporters and producers of cut flowers do not admit that any of the programs investigated or included in this Agreement constitute subsidies

within the meaning of the Act or the GATT Subsidies Code.

B. The provisions of section 704(i) of the Act shall apply if:

1. Any one or more of the Costa Rican producers and exporters of cut flowers who are signatories to this Agreement, or any new signatories, withdraw from or refuse to participate in this Agreement; or

2. The Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 704 of the Act.

C. If the Department learns of any new producers or exporters to the United States of the subject merchandise, it may attempt to negotiate an agreement with the additional producers or exporters.

D. Additionally, should exports to the United States by the producers and exporters account for less than 85 percent of the subject merchandise imported, directly or indirectly, into the United States from Costa Rica, the Department may attempt to negotiate an agreement with additional producers or exporters or may terminate this Agreement and reopen the investigation under § 355.32 of the Commerce Regulations. If reopened, the investigation will be resumed for all producers and exporters of the subject merchandise as if the affirmative preliminary determination were made on the date that the Department terminates this Agreement.

E. If, pursuant to section 704(g) of the Act, the investigation is continued after the notice of suspension of investigation, the application of this Agreement shall be consistent with the final determination issued in the continued investigation.

V. Undertaking by the Government of Costa Rica

A. In consideration of the foregoing Agreement between the Costa Rican producers and exporters of cut flowers and the Department of Commerce, the Government of Costa Rica agrees to take such resonable steps, within its authority, as are necessary to ensure that the renunciation of benefits in this Agreement by the Costa Rican producers and exporters of cut flowers is effectively implemented and monitored, including:

1. Notifying the relevant agencies within the Government of Costa Rica with specific program responsibility of the terms of this Agreement in order to ensure actions by those agencies consistent with the terms of this paragraph;

2. Supplying information and documentation possessed by the Government, that the Department deems necessary to demonstrate compliance by the Costa Rican producers and exporters of cut flowers with the terms of this Agreement;

3. Maintaining a centralized system of Poliza de Desalmacenaje records applicable to all imports by exporters of the subject merchandise;

4. Permitting such verification and data collection as deemed necessary by the Department in order to monitor this Agreement;

5. Notifying the Department if producers or exporters of cut flowers other than those which are parties to this Agreement export cut flowers to the United States and whether such producers and exporters have agreed to undertake the obligations specified under this Agreement as applying to them.

6. Notifying the Department if the Government becomes aware that the Costa Rican producers and exporters of cut flowers are transshipping the subject merchandise through third countries to the United States;

7. Notifying the Department if the Government alters its position with respect to any of the terms of this Agreement;

8. Notifying the Department if the Costa Rican producers and exporters of cut flowers apply for or receive, directly or indirectly, the benefits of the Costa Rican programs described in paragraph II., or any other Costa Rican programs found to be counteravailable within the meaning and terms of this Agreement, in the final determination or any subsequent review under section 751 of the Act, on exports of the subject products, directly or indirectly, from Costa Rica to the United States; and

9. Notifying the Department if, to its knowledge, the Costa Rican producers and exporters of cut flowers apply for, or receive, directly or indirectly, any new or substitute benefits on exports from Costa Rica to the United States in contravention of paragraph II G. above.

B. The Government of Costa Rica's undertaking under this section is not an admission that any of the programs investigated or included in the Agreement constitute subsidies under the Act or the GATT Subsidies Code.

C. The Government of Costa Rica recognizes that its undertaking is of substantial importance to the continuation of this Agreement.

VI. Effective Date

The effective date of this Agreement is the date of publication in the **Federal Register**. The provisions of this Agreement apply to exports on or after the effective date.

Signed on this 5th day of January 1987 for the Government of Costa Rica.

Rodrigo Sotela,

For the Government of Costa Rica.

Signed of this 5th day of January 1987 for the Asociacion Costarricense de Floricultores.

Andrew Jaxa-DeBicki,

Counsel for Acoflor.

Signed on this 5th day of January 1987 for the Costa Rican Producers and exporters of cut flowers.

Andrew Jaxa-DeBicki,

Counsel for Costa Rican producers and exporters of cut flowers.

I have determined, pursuant to section 704(b) of the Act, that the provisions of Section II eliminate or offset completely the countervailable benefits, within the meaning and terms of this Agreement, that the Government of Costa Rica is providing with respect to cut flowers exported, directly or indirectly, from Costa Rica to the United States. Furthermore, I have determined that this suspension of the investigation is in the public interest, that the provisions of Section III. and V. ensure that this Agreement can be monitored effectively, and that this Agreement meets the requirements of section 704(d) of the Act.

U.S. Department of Commerce

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

List of Producers and Exporters to the United States

1. American Flower Corp., S.A.
2. Flores del Cerro
3. Agroflor de Paraiso S.A.
4. Hermelink y Garces S.A.
5. Tico Flor S.A.
6. Cooexflo R.L.
7. Compania Agricola Flex S.A.
8. Exporflor de Cartago S.A.
9. Flor Bella S.A.
10. Lianpa S.A.
11. Floricultura de Costa Rica S.A.
12. Vivero El Zamorano S.A.
13. Flores del Iztaru S.A.
14. Inversiones Costa Flor. S.A.
15. Coopeflor

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[C-331-601]

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Certain Frest Cut Flowers From Ecuador

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to producers or exporters in Ecuador of certain fresh cut flowers (cut flowers) as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 1.01 percent *ad valorem*. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from Ecuador that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit on entries of these products in the amount equal to the estimated net bounty or grant.

EFFECTIVE DATE: January 13, 1987.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Ellie Shea, or Lori Cooper, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-2438, 377-0184, or 377-8320.

SUPPLEMENTARY INFORMATION:

Final Determination and Order

Based upon our investigation, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Ecuador of cut flowers. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Tax Credit Certificates for Exports.
- Short-Term FOPEX Export Credit.
- Long-Term Loans under the Fund for the Development of Exportable Production.

We determine the estimated net bounty or grant to be 1.01 percent *ad valorem*.

Case History

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing cut flowers. In compliance with the filing requirements of § 335.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that producers or exporters in Ecuador of cut flowers receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, 1986, we initiated an investigation (51 FR 21953, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested a full extension of the period within which a preliminary countervailing duty determination must be made, pursuant to section 703(c)(1)(A) of the Act. On July 3, 1986, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Ecuador is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is nondutiable. However, there is no "international obligation" within the meaning of section 303(a)(2) of the Act which requires an injury determination for nondutiable merchandise from Ecuador. Therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise from Ecuador materially injure, or threaten material injury to, a U.S. industry.

On June 20, 1986, we presented a questionnaire concerning petitioner's allegations to the Government of Ecuador in Washington, DC. We received responses from the government on July 11 and 22, August 20, September 9, and October 14, 1986. We received responses from the companies on July 23, August 20 and 29, September 9, 11, 12, 16, and 29, and October 2, 4, 10, and 14, 1986.

Because of the extension of the preliminary determination, we were able to verify the responses to the questionnaire prior to the preliminary determination. Verification was conducted in Ecuador from September 22 through October 5, 1986.

On the basis of information contained in the responses and information found at verification, we made a preliminary affirmative countervailing duty determination on October 20, 1986 (51 FR 37925, October 27, 1986).

At the request of petitioner and respondents, a public hearing was held on December 9, 1986. Both petitioner and respondents filed briefs discussing the issues arising in this investigation which have been taken into consideration in this determination.

Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS) and standard carnations, standard chrysanthemums, and pompon chrysanthemums, currently provided for in item 192.21 of the TSUS.

Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984).

For the sales values used in our calculations, we consider that the verified statistics from the Central Bank are the most accurate figures for the following reasons.

During verification, we found that there was a three-tiered exchange rate system in effect in Ecuador during the review period, consisting of an official market rate and an intervention market rate set by the Monetary Board of the Central Bank, and a free market rate. Until November 12, 1985, exporters were required by law to exchange foreign currency earned from export transactions at the official market rate at the Central Bank. On November 12, 1985, the official market rate became applicable only for the internal transactions of the Central Bank and exporters were then required to exchange foreign currency earned from export transactions at the intervention market rate in effect at the same time. Both of these rates were lower than the free market rate. On August 12, 1986, the Government of Ecuador abolished the multiple exchange rate system; currently, the free market rate is the only exchange rate in effect in Ecuador.

We also found during verification that the export sales figures reported by the companies were, in some cases, significantly different from the figures maintained by the Central Bank. Central Bank officials explained that the discrepancies might be attributable to under-reporting by exporters due to the requirement that exporters exchange their dollars earned from exports at the official market rate or intervention market rate, depending on the period, rather than the higher free market rate. Respondents maintain that export sales figures reported by the companies are more accurate than the Central Bank's figures. We tested this assertion by randomly selecting one company not among those included in the top 60

percent of the value of exports of the subject merchandise to the United States in 1985. At the verification of this randomly-selected company, we found that the sales figures reported for exports of the subject merchandise to the United States included exports of a flower not within the scope of this investigation and included commissions and handling costs. Because the sales figures reported by the companies could not be supported at verification, we have relied upon the export sales figures verified at the Central Bank for purposes of our calculations.

In relying on Central Bank figures, the three original respondent companies—Eden Flowers, Florexport and Serena Flowers—comprise only 57.19 percent of the value of exports of the subject merchandise to the United States in 1985. We requested and received a response from a fourth company, Florisol, on September 29, 1986. The four companies comprise 61.97 percent of the value of exports of the subject merchandise to the United States in 1985.

For purposes of this final determination, the period for which we are measuring bounties or grants (the review period) is calendar year 1985, which corresponds to the fiscal year of the respondent companies. Based upon our analysis of the petition, the responses to our questionnaire, verification, and comments filed by petitioner and respondents, we determine the following:

I. Programs Determined to Confer Bounties or Grants

We determine that bounties or grants are being provided to producers or exporters in Ecuador of cut flowers under the following programs:

A. Tax Credit Certificates for Exports

Petitioner alleges that negotiable tax credit certificates (CATs) are granted to companies that export non-traditional goods. Rates range from seven to 18 percent depending on the value of exports and location of the company. In addition, petitioner alleges that agricultural exports receive a flat five percent credit, and that new products and goods considered to be difficult to market abroad receive a ten percent credit.

Petitioner also alleges that the Government of Ecuador classifies companies into three categories for the purpose of conferring tax certificates. The "special" classification is given to companies designated by the National Development Council (CONADE) as being of high priority. Category "A" industries consist of new or existing companies that produce raw materials, semi-manufactured or finished goods for use in agriculture, forestry, mining or fishing. Firms must export at least 50 percent of their output or produce import substitutes to qualify for "A" status. Category "B" companies include new or existing enterprises that CONADE deems as contributing to economic development. Petitioner believes that flower growers and exporters qualify for Category "A" status.

During verification, we found that CATs are granted to companies that export non-traditional goods. Flower growers do not qualify for benefits under the Industrial Development Law which classifies companies as special, A, or B and which provides for CATs of up to 18 percent of the FOB value of export shipments. Under the Agriculture and Livestock Development Law of 1979, however, flower growers are eligible to receive a five percent tax credit. In certain instances, such as where access to foreign markets is especially difficult or new products are being introduced, the tax credit may increase by up to seven percent for a total of twelve percent on agricultural goods.

Each January a governmental committee approves a list of products eligible for CATs. Once the request for the tax credit is approved, the Central Bank of Ecuador is responsible for issuing the CAT. The actual tax credits are calculated on the FOB value of each export shipment and are expressed in sucres on the certificate, using the exchange rate in effect at the time the foreign currency originating from the export is delivered to the Central Bank. Prior to November 12, 1985, the official market rate was applicable to such transactions. From November 12, 1985 through August 12, 1986, the intervention market rate was applicable. Once issued, the CATs may not be redeemed for a period of one year from the date of shipment of the export. However, these certificates are negotiable and can be freely sold or purchased directly or through the stock exchange without any waiting period. Assignment of the CAT is achieved through endorsement.

During verification, we found no evidence that Florisol or Serena Flowers received or negotiated CATs in 1985. Florexport received and negotiated three CATs in 1986, after our review period. We also found that four CATs were issued in 1985 in the name of Proano Tafur, a former partner in Eden Flowers. These CATs were calculated as five percent of the FOB value of export shipments. Respondents assert that the company never realized any benefit from the CATs as the partner in question either retained or sold the CATs for his personal benefit. However, we consider that a benefit provided to one member of a partnership, based upon the company's exports, is a benefit to the company itself. Because these CATs are available only to exporters, we determine that this program is countervailable.

Although an exporter is required by law to hold the CAT for at least one year from the date of the export shipment if it is to be applied against tax payable, we are not treating this program like other tax programs in which the benefit is realized in the year the tax return is filed. This is due to the fact that CATs are normally sold, rather than redeemed for tax purposes. In the case of Eden Flowers, we were unable to ascertain at verification whether or not the CATs issued have been sold. Therefore, to calculate the benefit, we are using the face value of the CATs, as the best information available.

To calculate the benefit, we summed the value of the CATs in sucres issued to Proano Tafur, based on exports of the subject merchandise to the United States in 1985 of Eden Flowers. We converted this amount to U.S. dollars using the intervention market rate in effect during December 1985, the month in which the CATs were issued. We then divided this figure by the value in U.S. dollars of total exports of the subject merchandise to the United States in 1985 of the four respondent companies. On this basis, we calculate an estimated net bounty or grant of 0.91 percent *ad valorem*.

At verificatin, we found that this program was suspended indefinitely on August 12, 1986. However, because benefits may still be accuring from this program, and because this program has been suspended and reinstated in the past, we are not adjusting the bonding rate to reflect this change.

B. Short-Term FOPEX Export Credit

Petitioner alleges that the Fund for the Promotion of Exports (FOPEX) grants low-cost short-term loans to exports against guarantee of future shipment.

FOPEX was created in July 1972 under the administration of the Securities Commission-National Financial Corporation (CFN). Since December 1977, FOPEX has been included as one of the lines of financing of the CFN. The objective of FOPEX is to promote the export of non-traditional goods through the financing of export transactions and through investment in companies that orient their production to export.

FOPEX loans at eight to ten percent interest per year are available only for postshipment financing. In order to

obtain postshipment financing, applicants must produce export documents evidencing a completed transaction, such as promissory notes, bills of credit, or letters of credit. Flowers from Ecuador are generally sold on a consignment basis. Therefore, exports of flowers do not generate the typical export documents described above. As a result, exports of flowers are not eligible to receive postshipment loans. Flower exporters are eligible only for preshipment loans at 18 percent interest per year.

During verification we found that Serena Flowers had one short-term FOPEX loan with principal outstanding in 1985. Because short-term FOPEX loans are available only for export-related purposes, we determine that they are countervailable to the extent that they are provided at preferential rates. Using as our benchmark the maximum legal interest rate on short-term loans in Ecuador, plus an additional two percent tax levied on all short-term loans and a 0.25 percent cancer research tax applicable to all loans in Ecuador, we compared the interest rate on the loan to Serena Flowers to this benchmark. We determine that this FOPEX loan was provided at a preferential interest rate.

According to our short-term loan methodology, the benefit from a short-term loan arises at the time an interest payment is due. The FOPEX loan was given to Serena Flowers in December 1985 with all interest to be paid when the loan become due, September 16, 1986. Because no interest was due on this loan in 1985, we determine that no benefit was conferred during the review period. Therefore, the estimated net bounty or grant is zero.

C. Long-Term Loans Under the Fund for the Development of Exportable Production

Although not alleged by petitioner, we examined loans provided through the fund for the development of exportable production under the Fondos Financieros program. This program was established by decree on April 12, 1973, and consists of five separate funds: the agriculture and livestock development fund; the fund for small industry, handcrafting, tourism and fishery; the integral project fund; the fund for the development of exportable production; and the external resources fund. Flower growers are eligible for financing under both the agriculture and livestock fund and the fund for the development of exportable production. (*See* Section II.B. of this notice for a discussion of loans granted under the fund for agriculture and livestock development.) At verification, we found that flower growers are not eligible for financing under the fund for small industry, handcrafting, tourism and fishery; the integral project fund; or the external resources fund.

Fondos Financieros loans under all funds were available in 1985 at 18 percent interest, plus a two percent commission on loans of more than two years and a 0.25 percent cancer research tax. In all instances, recipients must self-finance at least ten percent of the project. Where a loan greater than 3,000,000 sucres is sought, the recipient must self-finance at least 20 percent of the project.

During verification, we found that Serena Flowers received one loan and Florisol received two loans under the fund for the development of exportable production of the Fondos Financieros loan program. Also, two partners in Edan Flowers each received a loan under this fund. All of these are fixed-rate long-term (from three-to five-year) loans, which had principal outstanding during the review period. Because these loans are available only to exporters, we determine that they are countervailable to the extent that they are provided at preferential rates.

According to our long-term loan methodology as outlined in the Subsidies Appendix, we use as a benchmark other fixed-rate long-term loans received by the company in the same year. Serena Flowers received a fixed-rate long-term Bonos de Fomento loan in the same year as its loan under the fund for the development of exportable production. Eden Flowers and Florisol had no other long-term loans.

At verification, we found that there are no long-term commercial loans available in Ecuador. We also found that the predominant alternative source of financing available to the agricultural sector is financing under the Bonos de Fomento loan program. We have determined that Bonos de Fomento loans are not limited to a specific enterprise or industry, or group of enterprises or industries (*See* Section II.A. of the notice), and we are, therefore, using the Bonos de Fomento rates as our benchmark for loans provided under the fund for the development of exportable production. Even though we determined that loans under the agriculture and livestock development fund of the Fondos Financieros program are available to all agriculture and are, therefore, not countervailable (*See* Section II.B. of the notice), they are not an appropriate benchmark because the agriculture and livestock development fund loans given to the respondent companies are loans of one or two years.

Comparing the actual interest rates charged on these loans to the Bonos de Fomento benchmark loans, and taking into account the different levels of financing available under the Bonos de Fomento program, we determine that the interest rates are preferential on loans to Florisol and Eden flowers. Applying our long-term loan methodology, we calculate an estimate net bounty or grant of 0.10 percent *ad valorem* from these loans.

II. Programs Determined Not to Confer Bounties or Grants

We determine that bounties or grants are not being provided to producers or exporters in Ecuador of cut flowers under the following programs:

A. Bonos de Fomento Long-Term Loans

Petitioner alleges that the growers and exporters of cut flowers in Ecuador are eligible for several types of low-cost financing for agricultural projects. The Agriculture and Livestock Development Law of March 1979 provides flower growers and exporters with special credit lines for medium- and long-term loans with grace periods of up to four years. In addition, it is alleged that flower growers and exporters may obtain preferential loans for agricultural projects through commercial banks, and two government-owned banks, the Corporacion Financiera Ecuatoriana de Desarrollo and the Banco Nicional de Fomento.

During verification, we found that the only credit line established under the Agriculture and Livestock Development Law is Bonos de Fomento. These loans are available through the government-owned Banco Nacional de Fomento and from commercial banks.

We found no lines of credit designed specifically to finance the investments of flower growers. Rather, we verified that Bonos de Fomento loans are fixed-rate long-term loans available to all producers of agricultural products. The purpose of Bonos de Fomento loans is to finance medium- and long-term investments (from five to ten years). Agricultural activities may be funded up to 90 percent of the project cost.

In 1985, Bonos de Fomento loans were available at 18 percent interest plus three percent annual commission and 0.25 percent cancer research tax. The maximum grace period is four years. Monetary Board regulations obtained from the Central Bank of Ecuador subsequent to verification specify that the official published interest rate on

Bonos de Fomento loans given in 1984 was 16 percent and twelve percent for loans given in 1983. The commission charged during those years was a minimum of two percent and a maximum of three percent. The maximum grace period was four years. Serena Flowers and Florexport received Bonos de Fomento loans which had principal outstanding during the review period. The interest rate plus commission and tax and the terms of the loan provided to each company are the same as the published rate in effect at the time of each company's respective loan.

Because these loans are provided to all agriculture and because the terms of these loans to Serena and Florexport are the same as the published terms on Bonos de Fomento loans in the year in which the loans were provided, we determine that these loans are not limited to a specific enterprise or industry, or group of enterprises or industries, and that these loans do not confer bounties or grants.

B. Loans under the Agriculture and Livestock Development Fund

During verification, we found that Florexport, Florisol, and Serena Flowers received loans under the agriculture and livestock development fund of the Fondos Financieros loan program. (*See* Section I.C. of the notice for a complete description of this program.) The loans to these companies were provided at the published rates for this program. Our examination of source documentation showed that loans under the agriculture and livestock fund have been provided to virtually all agricultural and livestock activities. Because these loans are available to more than a specific enterprise or industry, or group of enterprises or industries, and because the terms of the loans to Florexport, Florisol, and Serena are the same as the published terms in the year in which the loans were provided, we determine that these loans do not confer bounties or grants.

C. Import Duty Exemptions

Petitioner alleges that companies eligible for incentives may be exempted from all or part of the import duties on imported raw materials, machinery and equipment. During verification, we found that the benefits alleged by petitioner are available under the Industrial Development Law, which does not pertain to flower growers. Under the Agriculture and Livestock Development Law of 1979, however, a 100 percent exemption for duties and certain surcharges was available for the importation of virtually all agricultural products up until 1983. Such products include, among others, agricultural tools and machinery, pharmaceuticals for veterinary use, pesticides, fertilizers, chemicals, vitamins, antibiotics, fertilized eggs, animals for breeding, refrigeration equipment, milk storage containers, fire protection equipment for farm facilities, fumigation equipment, irrigation equipment, seeds, bulbs, and live plants. On June 8, 1983, the 100 percent exemption was reduced to 65 percent. Because this 65 percent exemption from duties and surcharges is available to all producers of virtually all agricultural commodities, we determine that this program does not confer bounties or grants to the producers and exporters of cut flowers in Ecuador.

During verification at Eden Flowers, we were told that a farmer partner had brought plant cuttings, imported from Israel, as capital to Eden Flowers. We were unable to establish at verification whether this import transaction occurred in 1985 or whether the appropriate duties were paid. According to the Department's regulations, 19 CFR Part 355, Annex I.3, an import duty exemption on items physically incorporated into the final product is not a countervailable benefit. Because plant cuttings are a physically incorporated input into flowers, we do not find the undocumented import of plant cuttings by Eden Flowers to confer a bounty or grant.

D. Long-Term Loan to Florexport

During verification, we found that Florexport received a fixed-rate long-term loan in May 1985 for the maintenance of land for the cultivation of pompom chrysanthemums. Eighty-six percent of this loan is financed by the Inter-American Development Bank (IDB) and the remaining fourteen percent is financed by the Banco Nacional de Fomento (BNF).

According to the standard policy of the Department, funds received from international organizations such as the IDB are not countervailable. [*See, e.g., Initiation of Countervailing Duty Investigation: Certain Textile and Textile Products from the Philippines* (49 FR 34381, August 30, 1984]. Therefore, we determine that the portion of the loan financed by the IDB does not confer bounties or grants.

During verification, we were unable to ascertain the availability and distribution of such financing by the BNF. However, when we compared the terms of the portion of the loan financed by the BNF to the fixed-rate long-term Bonos de Fomento loans which we are using as our benchmark, we found no difference. Therefore, we determine that this portion of the loan does not confer a bounty or grant.

E. Long-Term FOPEX Loan to Serena Flowers

Although not alleged by petitioner, long-term loans are available under the FOPEX program. During verification, we found that a fixed-rate long-term FOPEX loan was approved in 1984 for Serena Flowers.

Because FOPEX loans are available only to exporters, we determine that they are countervailable to the extent that they are provided at preferential rates. According to our long-term loan methodology as outlined in the Subsidies Appendix, we use as our benchmark other non-countervailable fixed-rate long-term loans of the company received in the same year. Because the terms of this loan were set and agreed upon in 1984, we compared the actual interest rate, commission, taxes, and terms of this FOPEX loan to the fixed-rate long-term Bonos de Fomento loan given to Serena Flowers in 1984. Since the terms and conditions of the fixed-rate long-term FOPEX loan are higher than the benchmark, we determine that this loan was not provided at a preferential rate and, therefore, does not confer a bounty or grant.

III. Programs Determined Not To Be Used

We determine that the producers or exporters in Ecuador of cut flowers did not use the following programs:

A. Tax Deductions for New Investment

Petitioner alleges that companies that extablish new industrial facilities or make investments in existing enterprises may deduct 50 percent of their investment in fixed assets from taxable income. Companies located in Ecuador's promotional zone, which includes all of Ecuador and the Galapagos except the provinces of Pichincha and Guayas (were Quito and Guayaquil are located), may deduct 100 percent of new investment in fixed assets from their taxable income.

According to the response of the Government of Ecuador, and based upon our findings during verification, these tax deductions are not available to the flower industry. Furthermore, all of the respondent companies are located in the province of Pichincha and are ineligible for any benefits based upon location in a promotional zone.

B. Tax Holidays

Petitioner alleges that flower growers and exporters are eligible for three- to

ten-year tax holidays on all taxes except income and sales taxes. These duration of the exemption depends on the firm's location and category. In addition, petitioner alleges that the firms which produce goods named on the List of Directed Investments (LID) and which are located in Ecuador's promotion zone qualify for an extra three percent tax credit. Petitioner believes that flowers are one of the 23 agro-industrial products named on this list.

According to the response of the Government of Ecuador, and based upon our findings during verification, these tax holidays apply only to industrial activities and flowers are not on the LID. Therefore, we determine this program not to be used.

C. Tax Exemptions for Transfers of Real Estate

Petitioner alleges that Category "A" enterprises which are located in Ecuador's promotional zone are exempt from taxes on transfers of real estate and on various other taxes, including property taxes, for up to ten years. According to the response of the Government of Ecuador, and based upon our findings during verification, these tax benefits are not available to the flower industry.

D. Sales and Income Tax Exemptions

Although not specifically alleged by petitioner, information provided in Exhibit 25 of the petition led us to investigate whether the Government of Ecuador provides benefits to producers or exporters of cut flowers in the form of sales and income tax exemptions. Companies engaging in LID activities and located in Ecuador's promotional zone are exempt from income tax for ten years form the start of production and from sales tax for ten years following the receipt of their incentive classification. According to the response of the Government of Ecuador, and based on our findings during verification, these exemptions are not available to the flower industry.

E. Other Tax Exemptions

Petitioner alleges that flower farms which export more than 50 percent of production are premanently exempt from incorporation, reorgainzation, stock transfer, capital and export taxes. According to the response of the Government of Ecuador, and based upon our findings during verification, these tax exemptions are not available to the flower industry.

F. Government Refinancing of Private Debt

Petitioner alleges that the Central Bank of Ecuador assists companies in refinancing private sector foreign debt. Companies use local currency to repay their foreign-currency denominated loans to the Central Bank, which in turn repays foreign creditors in dollars using preferential exchange rates. According to the responses, and based upon our finding during verification, none of the companies subject to this investigation has received assistance from the Central Bank to refinance its private debt. Therefore, we determine this program not to be used.

IV. Program Determined Not To Exist

Preferential Treatment for Imports of Seeds

Petitioner alleges that the Government of Ecuador provides preferential treatment for imports of seeds. During verification, we found no evidence of preferential exchange rates for the purchase of seeds or any special seed funding program. Therefore, we determine that this program does not exist.

Petitioner's Comment

Comment 1: Petitioner contends that the countervailing duty law is concerned with the bestowal of a bounty or grant on the production, manufacture, or export of a product and that, on this basis, the CATs issued to Proano Tafur of Eden Flowers are countervailable.

DOC Position: We agree. (*See* DOC Position on Respondent's Comment 3.)

Comment 2: Petitoner contends that the Department was unable to determine the true extent of participation in the CAT program by the respondent companies because CATs can be issued in the name of individuals as well as companies. Therefore, they argue that the Department should determine, as best information available, the net benefit from the program to be twelve percent.

DOC Position: We disagree. A list of partners and individuals associated with the respondent companies was obtained at verification. A review of all export permits and CATs issued in 1984 and 1985 turned up no evidence that any of the other respondent companies, or individuals associated with those companies, received CATs in 1985.

Comment 3: Petitioner contends that the Department should calculate a benefit from the short-term FOPEX loan to Serena Flowers, even though there was no payment due in 1985, and should add the benefit to the cash deposit rate. Petitioner argues that this would recognize the certainty of receipt of benefits in 1986 and would capture benefits accuring on entries between the final determination and the first 751 review.

DOC Position: According to the Department's methodology, we calculate the benefit from a short-term loan when the interest is due. Petitioner has not provided any persuasive reasons or shown any unusual circumstances to cause us to change our methodology for purposes of this investigation. Furthermore, the preshipment FOPEX loan to Serena Flowers financed exports made after the review period. We will be able to capture benefits accruing in 1986 in our administrative review under section 751 of the Act, if one is requested. Therefore, we are not adjusting the cash deposit rate.

Comment 4: Petitioner contends that, because the verification team was allowed to review only Serena Flowers' records on the FOPEX loan program during verification at the CFN, the Department should use the best information otherwise available for purposes of this program. Petitioner also asserts that the respondent companies may; in fact, have received post-shipment FOPEX loans as Florisol reported in its response to the antidumpting duty questionnaire that it does not always sell on consignment.

DOC Position: We agree. Our review of source documentation at the companies turned up no evidence of any FOPEX loans outstanding in 1985, other than the pre-shipment loan to Serena Flowers. We are satisfied that we adequately verified information pertaining to all FOPEX loans.

Comment 5: Petitioner contends that the appropriate benchmark for the short-term FOPEX loan to Serena Flowers is the maximum legal interest rate on short-term commercial loans, plus two percent, which can be added in commercial banking transactions.

DOC Position: We agree. The 23 percent maximum legal interest rate on short-term (less than two-year) commercial loans is the nominal rate. The effective rate is an additional two percent, plus a 0.25 percent cancer research tax, which we have included in our benchmark.

Comment 6: Petitioner contends that the benchmark the Department used for long-term loans is the preliminary determination is erroneous because it is itself a preferential rate available only to companies within the agricultural sector. Petitioner argues that the Department should use the highest short-term commercial rate in 1985, as reported by the Central Bank, as the

long-term benchmark because in the absence of preferential government financing, flower growers and exporters would have to obtain short-term financing and continuously roll over their debt.

DOC Position: We disagree. The Department considers programs available to the entire agricultural sector not to be limited to a specific enterprise or industry, or group of enterprises or industries. During verification, we found that the Bonos de Fomento loans are the predominant alternative source of long-term financing available to the agricultural secton. We also found that there are no long-term commercial loans available in Ecuador. In an economy such as Ecuador's where the government controls a large part of the agricultural credit market and where there are no long-term commercial loans, we must consider government funds that are not limited to a specific enterprise or industry, or group of enterprises or industries as a legitimate part of the commercial environment facing any agricultural firm. Therefore, we determine that the Bonos de Fomento loan program is the appropriate long-term benchmark *See*, the *Final Affirmative Countervailing Duty Determination: Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada* (50 FR 25097, June 17, 1985) and the *Final Results of Countervailing Duty Administrative Review and Revised Suspension Agreement: Roses and Other Cut Flowers from Colombia* (51 FR 44930, December 15, 1986).

Comment 7: Petitioner contends that, if the Department chooses not to use a commercial rate for long-term benchmark purposes, the Department should use a weighted average of preferred and non-preferred credit lines. Petitioner states that such a methodology would understate the true extent of the benefit, but would be preferable to a methodology which compares a preferential rate to a preferential rate.

DOC Position: We disagree. (*See* DOC Position to Petitioner's Comment 6.)

Comment 8: Petitioner contends that the absence of long-term commercial loans in Ecuador is not likely to be verifiable.

DOC Position: We disagree. During verification, officials from private banks and from the U.S. Agency for International Development confirmed that there are no long-term (more than two-year) commercial loans available in Ecuador. Furthermore, our review of the financial records of the four respondent companies showed no evidence of loans of more than one year from commercial sources.

Comment 9: Petitioner argues that, if the Department continues to use a government-backed loan rate as a benchmark as it did in the preliminary determination, the two to three percent commission on Bonos de Fomento loans should be added so that the benchmark reflects the effective rate of such financing.

DOC Position: We agree. In our calculations, we have added the three percent commission applicable to Bonos de Fomento loans.

Comment 10: Petitioner contends that the Department erred in its preliminary determination in finding that the Bonos de Fomento and Fondos Financieros loans from the agriculture and livestock funds were available to all producers of agricultural products and were, therefore, not bounties or grants.

DOC Position: We disagree. Information reviewed during verification supports our preliminary finding of the availability of these programs to all agriculture.

Comment 11: Petitioner contends that, even if the Bonos de Fomento program is available to a range of industries within agriculture, flower growers received Bonos de Fomento loans at a lower rate than the stated rate of the program. Therefore, Bonos de Fomento loans are countervailable even under the Department's general availability test, and at a minimum the *ad valorem* benefit should be equal to the difference between the stated Bonos de Fomento rate and the rate actually obtained by the flower growers.

DOC Position: We disagree. The Bonos de Fomento loans in question were received in 1983 and 1984. Monetary Board regulations obtained from the Central Bank of Ecuador show that the Bonos de Fomento loans received by the flower growers in 1983 and 1984 were at the official published rate for this program during those years, and that these published rates are lower than the published rate charged on loans given in 1985.

Comment 12: Petitioner contends that export promotion is among the main objectives of all or most of the programs found at the preliminary determination to be available to a wide range of industries within agriculture and cites Articles 1(b) and 4(b) of the Agriculture and Livestock Development Law of 1979. Petitioner further contends that the extent of availability of benefits under the programs is irrelevant, as the benefits are conditioned upon exports and are, therefore, countervailable.

DOC Position: We disagree. The availability of these programs is not limited to exporters nor contingent upon export performance; thus, they are not export subsidies. Although one of the many objectives of the Agriculture and Livestock Development Law is to increase exportable production, other objectives include increasing domestic production, promoting agricultural activity to increase investment in the agricultural sector, promoting more efficient use of resources to achieve maximum national production capacity, promoting and improving services to agricultural producers, etc. We found no evidence in the responses or during verification to support petitioner's allegation that most or all of the programs are countervailable as export programs. We are countervailing the export programs found to be used and are not countervailing the non-specific domestic programs. *See* also, the *Final Affirmative Countervailing Duty Determination: Ceramic Tile from Mexico and Countervailing Duty Order* (47 FR 20012, May 10, 1982).

Comment 13: Petitioner contends that the Department's preliminary finding that loans provided under the agriculture fund of the Fondos Financieros program are not countervailable while loans provided under the export development fund of the same program are countervailable is illogical and incongruous. Petitioner argues that all Fondos Financieros loans are countervailable.

DOC Position: We disagree. (*See* DOC Position to Respondents' Comment 5.)

Comment 14: Petitioner contends that, to the extent flower growers and exporters received benefits under the fund for the development of exportable production of the Fondos Financieros program, the final determination should treat such benefits as countervailable.

DOC Position: We agree. (*See* Section I.C. of this notice.)

Comment 15: Petitioner contends that the Department should use best information available in making its final determination on the Fondos Financieros program because Department personnel were not permitted to view the general ledger of all Fondos Financieros loans during verification.

DOC Position: We disagree. While we were unable to review complete documentation at the Central Bank due to confidentiality requirements, we were able to discuss the program and review documentation at several commercial banks. We are satisfied that we have adequately verified the information pertaining to this program.

Comment 16: Petitioner contends that because Central Bank records did not

show the import by a partner in Eden Flowers of plant cuttings from Israel, the reliability of all Central Bank records is undermined and the responses of the government and the individual companies are rendered unreliable. Therefore, petitioner argues that all allegations, including import duty exemptions, should be decided on the basis of the best information available, to the extent that they are not supported by objective, documentary evidence freely supplied to the Department.

DOC Position: We disagree. The fact that the Central Bank had no record of this import transaction does not call into question all of the records of the Central Bank, nor does it establish that the entire import duty exemption program was not verified. We are satisfied that we have adequately verified the information pertaining to this and all other programs. Furthermore, in accordance with our regulations, 19 CFR Part 355, Annex I.3, we do not countervail import duty exemptions on items physically incorporated into the final product. Because plant cuttings are a physically incorporated input into flowers, we are not countervailing the undocumented import transaction of Eden Flowers.

Comment 17: Petitioner reiterates that the program allegation on Preferential Treatment for Imports of Seeds came from a report prepared by the Dutch agricultural attaché in Venezuela. Petitioner asks whether the Department has contacted the Dutch Embassy to clarify the nature of the alleged program.

DOC Position: At verification we found no evidence of any program under which preferential loans, exchange rates, or other funding are provided for imports of seeds. We found that the U.S. Government, through the Commodity Credit Corporation (CCC), provides funds for the importation of excess U.S. production of foodstuffs for basic consumption and of agricultural and livestock products. These loans are provided at the maximum legal interest rate of 23 percent plus the two percent tax and 0.25 percent cancer research tax. We saw no evidence that any such loans were provided to the companies subject to this investigation. We are satisfied that our verification of this program was adequate and that no additional clarification is needed.

Respondents Comments

Comment 1: Respondents contend that the CAT program was a means of compensating exporters for the artificially low exchange rate—the intervention market rate—at which they were required by Ecuadorean law to exchange their export earnings, and therefore, is not countervailable. Respondents contend that the the fact that both the CAT program and the multiple exchange rate system were terminated at the same time is evidence of the interrelationship between the two programs.

DOC Position: We recognize that exporters were required by law to convert their foreign exchange at the official market rate until November 12, 1985, and at the intervention market rate from August 12, 1985 through August 12, 1986. We also recognize that both of these rates were lower than the free market rate during 1985. However, during verification we saw no evidence that the Government of Ecuador established the CAT program for the purpose of compensating exporters for the lower exchange rate. Furthermore, while the multiple exchange rate system has been terminated, the CAT program has only been suspended, albeit indefinitely. Therefore, we have found that the CAT program provides a direct benefit based on the FOB value of exports, and is countervailable.

Comment 2: Respondents contend that 19 U.S.C. 1677(6)(C) gives the Department the authority to subtract from the CATs the penalty associated with the detrimental exchange rate to which exporters were subject during the review period. They maintain that the exchange rate was the equivalent of other charges levied on the export of merchandise to the United States specifically intended to offset the subsidies received.

DOC Position: We disagree. We do not consider the exchange rate system in Ecuador to be an export tax, duty, or other charge levied on the export of merchandise to the United States specifically intended to offset the subsidy received. Therefore, it is not among the permissible offsets outlined in 19 U.S.C. 1677(6)(C). We saw no evidence that the exchange rate system was a charge imposed to offset the benefit from the CAT program. For these reasons, we are not subtracting from the value of the CATs received, the alleged penalty associated with the difference between the exchange rate to which exporters were subject during the review period and the free market rate.

Comment 3: Respondents contend that the CATs issued in December 1985 to Proano Tafur should not be found countervailable because Mr. Tafur sold his portion of the Eden Flowers partnership in November 1985 and retained or negotiated the CATs for his own personal benefit. Therefore, no benefits accrued to Eden Flowers from these CATs.

DOC Position: We disagree. The CATs issued in the name of Proano Tafur were based on Eden Flowers' 1985 export shipments of the subject merchandise to the United States. Furthermore, Mr. Tafur was a partner in Eden Flowers as of the date of application for the CATs. We have no evidence that the CATs were not part of the consideration for Eden Flowers' purchase of Tafur's share of the partnership. For these reasons, we find that these CATs are attributable to Eden Flowers and are countervailable.

Comment 4: Respondents contend that the indefinite suspension of the CAT program should be considered a program-wide change and therefore be reflected in an adjusted bonding rate. Respondents further argue that the previous suspension of the CAT program from March 1983 to June 1984 was due to a monetary and political crisis in Ecuador which made it impossible for the government to finance the CAT program. The indefinite suspension of the program announced on August 12, 1986, respondents maintain, is part of an overall plan to liberalize trade, eliminate protectionism, and allow free market forces to govern. They assert that the suspension is actually a permanent discontinuance and that current exports are not benefitting from this program.

DOC Position: We disagree. During verification, we found that Florexport received CATs in 1986. Therefore, although the program has been suspended indefinitely, benefits may still be accruing from this program. Furthermore, the program has not been terminated; rather, it has been suspended indefinitely. Because benefits may still be accruing from this program (specifically from the CATs issued to Florexport in 1986), because the indefinite suspension implies at least the possibility for reinstatement of the program, and because the CAT program has been suspended and reinstated in the past, we are not considering this to be a program-wide change for cash deposit purposes.

Comment 5: Respondents contend that the Fondos Financieros loan program is only one fund, available to the entire agricultural sector, and therefore is not countervailable. Respondents further maintain that all loans under the program are identical regardless of purpose, and therefore, there is no additional benefit bestowed if a loan is granted for export activities. They further assert that, as the Fondos Financieros program constitutes one fund, it is incongruous for the Department to hold that loans given to

finance exports are countervailable, while loans given to finance agricultural activities are not.

DOC Position: We disagree. During verification, we found that the Fondos Financieros loan program is, in fact, five separate funds. Application is made to a specific fund and the approved loan proceeds are from a specific fund which is indicated on the loan approval forms. Flower growers and exporters are eligible to receive loans under the agriculture and livestock development fund, which we found to be available to virtually all agricultural and livestock activities, and under the fund for the development of exportable production. Because loans given under the fund for the development of exportable production are contingent upon exports, we found these loans to be countervailable to the extent they are provided at preferential rates. Arguably, we could have used loans under the agriculture and livestock development fund as a benchmark. However, agriculture and livestock development fund loans are inappropriate for benchmark purposes because the loans we examined were provided on different terms than the loans under the fund for the development of exportable production. The agriculture and livestock development fund loans are for one to two years, while loans under the export fund are for three to five years.

Comment 6: Respondents contend that, if loans under the Fondos Financieros loan program are found to be countervailable, the Department should use the free market exchange rate to convert sucres to dollars in calculating the benefit. Respondents further argue that the official and intervention market rates were artifically low rates set by the Central Bank applicable to foreign currency earned from exports; currency obtained from all other transactions was exchangeable at the floating free market rate.

DOC Position: We disagree. During the review period, Ecuadorean companies were required by law to convert their foreign exchange earned from exports to sucres at the official market rate and, beginning in November 1985, at the intervention market rate. Therefore, these rates are the best reflection of sucres earned for export transactions and the best measure of the value of the benefits received under the fund for the development of exportable production of the Fondos Financieros loan program.

Comment 7: Respondents contend that the FOPEX program is not counervailable. They argue that during the period of investigation exporters were disadvantaged due to the requirement that they exchange their export earnings at the lower intervention market rate, and that even with FOPEX loans, exporters were not receiving a net benefit, rather they were experiencing a net loss.

DOC Position: The provision of short-term export loans at preferential rates is a countervailable benefit under the countervailing duty law. The exchange rate policy in effect in Ecuador during the review period is an issue unrelated to the provision of short-term preferential loans based on exports.

Comment 8: Respondents contend that the Department correctly used an agricultural benchmark in its preliminary determination to calculate the benefit from long-term loans and should continue to use the benchmark in the final determination.

DOC Position: We agree. During verification, we found that there are no long-term (more than two-year) commercial loans available in Ecuador. We also found that the Bonos de Fomento loan program is the predominant alternative source of long-term financing available to all agricultural activities. Therefore, we determine that the Bonos de Fomento loan program is the appropriate long-term benchmark.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. During verification, we followed standard verification procedures, including meeting with government officials, as well as on-site inspection of the companies, inspection of documents and ledgers, and tracing information in the responses to source documents, accounting ledgers, and financial statements.

Suspension of Liquidation

In accordance with section 705(c)(1)(B) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from Ecuador which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit of each entry of this merchandise equal to 1.01 percent *ad valorem*. This suspension will remain in effect until further notice.

This determination is published pursuant to section 705(d) of the Act [19 U.S.C. 1671d(d)].

Paul Freedenburg,

Assistant Secretary for Trade Administration.

January 5, 1987.

[FR Doc. 87-599 Filed 1-12-87; 8:45 am]

BILLING CODE 3510-DS-M

Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee will be held February 5, 1987, 9:30 a.m. Herbert C. Hoover Building, Room 1092, 14th Street and Constitution Avenue, NW., Washington, DC. The Switching Subcommittee was formed to study computer controlled switching equipment with the goal of making recommendations to the Office of Technology & Policy Analysis relating to the appropriate parameters for controlling exports for reasons of national security.

Agenda

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the Public.
3. Continued discussion of modification to ECCN 1567.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before after the meeting. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C.

552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4117. For further information or copies of the minutes, call Betty Ferrell at (202) 377-4959.

Dated: January 8, 1987.

Margaret A Cornejo,

Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 87-679 Filed 1-12-87; 8:45 am]

BILLING CODE 3510-DT-M

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held February 4, 1987, 9:30 a.m. Herbert C. Hoover Building, Room B-841, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment or technology.

Agenda

1. Introduction of attendees and opening remarks by the Chairman.
2. Review and approval of the minutes of November 20, 1986.
3. Presentation of papers or comments by the public.
4. Report by Chairman on December 10, 1986 TAC Chairmen's meeting.
5. Review of Departmental support to the Committee.
6. Summary review of responses to Federal Register notice of December 5, 1986, requesting comments on the annual review of the Commodity Control List.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes, call Betty Ferrell at (202) 377-4959.

Dated: January 8, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87-680 Filed 1-12-87; 8:45 am]

BILLING CODE 3510-01-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's workgroup on priority access for the domestic processing industry will hold its first meeting on January 13, 1987, beginning at 9 a.m., in Room 2143, Building 4, of the Northwest and Alaska Fisheries Center, 7600 Sand Point Way NE., Seattle, WA. At this meeting the workgroup will concentrate on one or more conceptual approaches to accomplishing priority for domestic processors to fishery resources in the Gulf of Alaska and Bering Sea/Aleutian Islands. Results of the meeting will be presented to the Council for consideration at their meeting on January 21, 1987, at the Hotel Captain Cook in Anchorage, AK.

A workgroup of Advisory panel members and members of the fishing industry will meet immediately following the adjournment of the Council's meeting January 21-22, 1987, at the Hotel Captain Cook in Anchorage. The workgroup was formed to explore possible solutions to bycatch issues in the Gulf of Alaska and Bering Sea/Aleutian Islands. Topics for discussion at this meeting will include: setting the agenda for 1987, identifying data needs, and determining the scope of the problem to be considered.

For more information contact Jim H. Branson, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK; telephone: (907) 274-4563.

Dated: January 7, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-652 Filed 1-12-87; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Salmon Plan Development of the Pacific Fishery Management Council (Council) will meet in the Council's office, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR, beginning at 1 p.m. on January 26, 1987. The meeting will continue through the remainder of the week. The purpose of the Salmon Plan Development Team meeting is to complete drafting of the annual report to the Council entitled "Review of 1986 Ocean Salmon Fisheries."

The meeting is open to the public with special public comment period scheduled for 3 p.m. on January 28. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 SW. First Avenue, Suite 420, Portland OR 97201; telephone: (503) 221-6352.

Dated: January 7, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-653 Filed 1-12-87; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Serono Laboratories, Inc. having a place of business in Randolph, MA 02368, an exclusive right in the United States to practice the invention embodied in U.S. Patent Application S.N. 6-844,503, "Human Growth Hormone Produced by Recombinant DNA in Mouse Cells." The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted within the above specified 60-day period and should be addressed to Robert P. Auber, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 87-699 Filed 1-12-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Haiti

December 31, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 9, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these levels, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

The Governments of the United States and Haiti exchanged diplomatic notes on September 26 and 30, 1986 on a new bilateral agreement concerning trade in cotton, wool and man-made fiber textile products, produced or manufactured in Haiti and exported during the period which begins on January 1, 1987 and extends through December 31, 1989. The agreement establishes designated consultation levels for Categories 331, 337/637, 340/640, 341/641, 347/348 and 350, exported during the first agreement year which begins on January 1, 1987 and extends through December 31, 1987. In the directive that follows this notice, the CITA Chairman directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories in excess of the designated twelve-month levels.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607, December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 31, 1986.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exhange of letters dated September 26 and 30, 1986, between the Governments of the United States and Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 9, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber apparel products in the following categories, produced or manufactured in Haiti and exported during the twelve-month period beginning on January 1, 1987 and extending through December 31, 1987, in excess of the following levels:

Category	12-month level
331	310,000 dozen pairs.
337/637	160,000 dozen.
340/640	300,000 dozen.
341/641	175,000 dozen.
347/348	350,000 dozen.

In carrying out this directive, entries of cotton and man-made fiber textile products in the foregoing categories, with the exception of 331, 340, 341, 637, 640 and 641, produced or manufactured in Haiti, which have been exported to the United States on and after January 1, 1986 and extending through December 31, 1986, shall, to the extent of any unfilled balances, be charged against the levels of restraint limits established for such goods during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782, and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-692 Filed 1-10-87; 9:25 am]

BILLING CODE 3510-DR-M

Announcing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Trinidad and Tobago

December 31, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 9, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these levels, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

On October 15 and 23, 1986 the Governments of the United States and Trinidad and Tobago established a bilateral agreement concerning cotton, wool and man-made fiber textiles, produced on manufactured in Trinidad and Tobago and exported during the period which began on October 1, 1986 and extends through December 31, 1989.

The agreement establishes, among other things, designated consultation levels for Categories 336/636, 339/339, 340/640, 347/348/647/648 and 352/652 exported during the first agreement period which began on October 1, 1986 and extends through December 31, 1987. In the directive that follows this notice, the CITA Chairman directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal form warehouse for consumption, of textile products in the foregoing categories in excess of the designated fifteen-month levels.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

This letter and the actions taken pursuant to it are not designed to implement all of the provisons of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 31, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of letters dated on October 15 and 23, 1986, between the Governments of the United States and Trinidad and Tobago and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 9, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber apparel products in the following categories, produced or manufactures in Trinidad and Tobago and exported during the fifteen-month period beginning on October 1, 1986 and extending through December 31, 1987, in excess of the following levels:

Category	15-Mo. level
336/636	81,250 dozen.
338/339	131,250 dozen.
340/640	62,500 dozen of which not more than 31,250 dozen shall be in yarn-dyed fabrics in TSUSA numbers 381.0522, .5500, .5610, .5625, .5637, .5660, .3132, .3142, .3152, .9535, .9547, .9550.
347/348/647/648	125,000 dozen.
352/652	125,000 dozen.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-693 Filed 1-9-87; 9:25 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Applications of the Chicago Board of Trade and the Philadelphia Board of Trade for Designation as Contract Markets in Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contracts.

SUMMARY: The Chicago Board of Trade ("CBT") has applied to the Commodity Futures Trading Commission ("Commission") for designation as a contract market in Eurobond Index futures. In addition, the Philadelphia Board of Trade ("PHBT") has applied for designation as a contract market in futures on the Australian dollar. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before March 16, 1987.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

Reference should be made to the specific futures contract being addressed.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254-7227.

Copies of the terms and conditions of the proposed futures contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CBT or the PHBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 145.8

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contracts, or with respect to other materials submitted by the CBT or PHBT in support of their applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

Issued in Washington, DC on January 8, 1987.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 87-687 Filed 1-12-87; 8:45 am]

BILLING CODE 6351-01-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. 87-2-85CD]

Ascertainment of Whether Controversy Exists Concerning Distribution of 1985 Cable Royalty Fees

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036, (202) 653-5175.

SUMMARY: In accordance with 17 U.S.C. 111(d)(5)(B), the Copyright Royalty Tribunal directs that all claimants to royalty fees paid by cable operators for secondary transmissions during 1985 (Phase I and Phase II claimants) shall submit not later than March 2, 1987 any comments concerning whether a controversy exists with regard to the distribution of the 1985 royalty fees. Any controversy of which the Tribunal does not become advised by the end of the comment period will not be considered at a later date.

Dated: January 7, 1987.

J.C. Argetsinger,

Chairman.

[FR Doc. 87-670 Filed 1-12-87; 8:45 am]

BILLING CODE 1410-09-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplemental Environmental Impact Statement; Oakland Outer Harbor Deep-Draft Navigation Improvements; Alameda County, CA

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Supplemental Environmental Impact Statement (SEIS).

1. *Summary:* The proposed action is the modification of the Oakland Outer Harbor Channel. Oakland Outer Harbor is located on the eastern shore of central San Francisco Bay in Alameda County, about eight miles inside the Golden Gate and immediately south of the San Francisco-Oakland Bay Bridge. The existing channel is −35 feet MLLW and varies in width from 600 feet to 950 feet; it contains a turning basin 950 feet in diameter. The channel is no longer adequate to safely accommodate modern deep-draft vessels. The Port of Oakland and Corps of Engineers are planning to widen and deepen the Oakland Outer Harbor Channel, and to dispose of dredged material at an ocean disposal site located outside the Golden Gate. Environmental impacts of the proposed construction were assessed in 1979, and reported in the *Final Environmental Statement, Oakland Outer Harbor Deep-Draft Navigation Improvements, Alameda County, California.*

The FEIS was filed with the Environmental Protection Agency on February 20, 1981. Changes in the project requiring preparation of a Supplemental EIS include:

a. Disposal of all the dredged material is now proposed for a to-be-designated ocean disposal site. Previously, a portion of the material was to be disposed at the designated in-Bay site situated adjacent to Alcatraz Island (SF-11). The former ocean disposal site is no longer available since it was incorporated in the Farallon Islands Marine Sanctuary; therefore, the Corps, in conjunction with the Environmental Protection Agency, is in the process of designating a new ocean disposal site. Final designation is scheduled for February 1988.

b. Channel construction would require dredging of less than 4.9 million cubic yards of fine-grained sediment.

c. Annual maintenance dredging requirements would be increased by 88,000 cubic yards. Previously the annual increase was estimated as 234,000 cubic yards.

2. *Alternatives:* The following alternatives are being considered:

a. *Plan Y*—Deepen the entire one-way channel from −35 feet to −42 feet MLLW, possibly widen the bar channel from 800 feet to 900 feet, widen the entrance channel 200 feet at its western end (800 feet to 1,000 feet) and 100 feet at its eastern end (600 feet to 700 feet), and relocate the turning basin 3,000 feet westward and increase its diameter from 950 feet to 1,425 feet.

b. *Plan Z*—Deepen the entire one-way channel from −35 feet to −42 feet MLLW, possibly widen the bar channel from 800 feet to 900 feet, widen the entrance channel 200 feet at its western end (800 feet to 1,000 feet), tapering 2,300 feet eastward to its existing width of 600 feet, and relocate the turning basin 3,000 feet westward and increase its diameter from 950 feet to 1,425 feet. Plan Z is the preferred alternative as it would not result in relocation of anode platforms and cables for the Bay Area Rapid Transit (BART) transbay tunnel and less dredging would be necessary.

3. *Scoping:* Federal, State and local agencies, and interested private organizations and individuals are invited to submit written comments on the proposed action within 30 days of the date of this notice to Rod Chisholm, Chief, Environmental Branch, San Francisco District Corps of Engineers, 211 Main Street, San Francisco, California 94105 (ATTN: Patricia Duff, SPNPE-R).

4. *Important Issues:*

a. The following issues have been identified and addressed in the Environmental Impact Statement:

(1) Air Quality
(2) Sediment Quality
(3) Hydrographic Impacts
(4) Water Quality Impacts
(5) Biological Resources
(6) Aesthetics
(7) Recreation
(8) Cultural Resources
(9) Socio-cultural Impacts
(10 Land Use

b. Issues identified as being relevant to the project modifications which will be discussed in the SEIS include:

(1) Water Quality—at the dredge site and the disposal site

(2) Chemical Impacts
(3) Transport of Disposed Sediment
(4) Impacts on Fish and Wildlife—at the ocean disposal site
(5) Potential Impacts on the Merritt-Posey Aquifer

5. The Draft SEIS is scheduled to be issued for agency review on July 15, 1987, the final SEIS is scheduled for completion December 15, 1987.

6. Questions about the proposed action and SEIS can be directed to Patricia Duff at (415) 974-0441 or FTS 454-0441.

Dated: December 31, 1986.

Andrew M. Perkins, Jr.,

Lieutenant Colonel, Corps of Engineers, District Engineer.

[FR Doc. 87-700 Filed 1-12-87; 8:45 am]

BILLING CODE 3710-FS-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Remedial Order To Concord Petroleum Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to Concord Petroleum Corporation.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Concord Petroleum Corporation and Paul C. Elliott of 10810 Oak Creek, Houston, Texas. This Proposed Remedial Order alleges violations in the amount of $3,019,224.04, plus interest resulting from violations of 10 CFR 212.186, 10 CFR 205.202 and 10 CFR 210.62(c) during the period June 1978 through December 1980. The effect of the alleged violations is nationwide.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue SW., Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room 6F-078, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon:

Sandra K. Webb, Director, Economic Regulatory Administration, U.S. Department of Energy, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002

and upon:

Marshall A., Staunton, Acting Solicitor, Economic Regulatory Administration, U.S. Department of Energy, Room 3H-017, RG-40, 1000 Independence Avenue SW., Washington, DC 20585.

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

Marshall A. Staunton,

Acting Solicitor, Economic Regulatory Administration.

[FR Doc. 87-725 Filed 1-12-87; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

[Notice 87-2]

Special Research Grant Program; Applications

AGENCY: Energy Research Office, DOE.

ACTION: Notice inviting grant application.

SUMMARY: The Office of Energy Research of the Department of Energy (DOE) hereby announces its interest in receiving applications for Special Research Grants supporting development of diagnostics for the study of alpha particle behavior in ignited plasmas. This notice emphasizes DOE's particular interest in, and is intended to stimulate applications related to, this specific research objective.

DATE: To permit timely consideration, applications submitted in response to this Notice should be received by the Division of Acquisition and Assistance Management by March 16, 1987.

ADDRESS: Applications should be forwarded to: U.S. Department of Energy, Division of Acquisition and Assistance Management, Office of Energy Research, Room G-236, Washington, DC 20545, Attn: P.N. 87-2.

FOR FURTHER INFORMATION CONTACT: Mr. Donald H. Priester, U.S. Department of Energy, Office of Fusion Energy, ER-542, Washington, DC 20545, (301) 353-3421.

SUPPLEMENTARY INFORMATION: A plasma device, the Compact Ignition Tokamak (CIT), is being planned in which a primary objective is the achievement of ignition and the study of a burning plasma. An essential element in this program is the measurement of the spatial, temporal, and velocity distribution of the fast alpha particles as they slow down in the plasma. It is of interest to determine whether the alphas slow down classically or by some other energy-loss mechanism and to answer questions concerning alpha-particle confinement, efficiency of alpha-particle heating, and interactions of alpha particles with plasma instabilities. There are presently no established techniques for following this slowing down. DOE is interested in receiving applications aimed at providing the diagnostic capability necessary for achieving this objective.

It is expected that a limited number of initial awards will be made in FY 1987 totaling approximately $200,000. A 5-year program is anticipated subject to the availability of funds. DOE reserves the right to support or not to support any or all applications in whole or in part.

Information about submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures may be found at 10 CFR Part 605. Application kits and copies of 10 CFR Part 605 are available from DOE, Division of Acquisition and Assistance Management (see above address). Instructions for preparation of the application are included in the kit.

Additional information regarding the physics and diagnostics of alpha particles may be found in a summary report of the Ignition Physics Study Group Workship on Alpha Particles, December 1985, and the Compact Ignition Tokamak Diagnostic Plan (copies of both reports are available from Dr. Kenneth Young, Plasma Physics Laboratory, Princeton University, P.O. Box 451, Princeton, New Jersey 08544). The Catalog of Federal Domestic Assistance number is 81.049.

Issued in Washington, DC, on January 7, 1987.

Ira M. Adler,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 87-726 Filed 1-12-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER87-180-000]

Cincinnati Gas & Electric Co.; Filing

January 5, 1987.

Take notice that on December 22, 1986, Cincinnati Gas & Electric Company (Cincinnati) tendered for filing pursuant to section 205(d) of the Federal Power Act and § 35.13 of the Commission's Regulations, Modification No. 3, dated as of December 1, 1986, to the Interconnection Agreement, dated as of January 1, 1979, (Agreement), between Cincinnati and The Dayton Power & Light Company and supporting documents.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-660 Filed 1-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-696-001]

Kansas Gas & Electric Co.; Filing

January 5, 1987.

Take notice that on November 10, 1986, Kansas Gas & Electric Company (KG&E) tendered for filing compliance report in response to the deficiency regarding the justification of the proposed rate set forth in Docket No. ER86-696-000, issued August 29, 1986.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in Accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-661 Filed 1-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-14-000, 001]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

January 7, 1987.

Take notice that on January 2, 1987 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing three (3) revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, all of which are dated as issued on December 31, 1986, proposed to become effective February 1, 1987, and indentified as follows:

Fortieth Revised Sheet No. 4
Fifteenth Revised Sheet No. 4-B
Alternate Thirty-sixth Revised Sheet No. 18

Lawrenceburg states that its revised tariff sheets were filed under its Purchased Gas Adjustment (PGA) Provision in order to track changes in the rates of its pipeline supplier.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-658 Filed 1-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-136-001]

National Fuel Gas Supply Corp. Motion to Place Into Effect Revised Tariff Sheets.

January 7, 1987.

Take notice that on December 31, 1986, National Fuel Gas Supply Corporation (National) submitted for filing, pursuant to section 4(e) of the Natural Gas Act, as amended, the § 154.67 of the regulations of the Federal Energy Regulatory Commission thereunder, a motion to place the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, into effect as of January 1, 1987, subject to refund:

Substitute Seventh Revised Sheet No. 4
Third Revised Sheet No. 9

Through this motion, National also seeks to place into effect the following sheets to its FERC Gas Tariff, First Revised Volume No. 2, as of January 1, 1987, subject to refund:

Second Revised Sheet No. 281
Second Revised Sheet No. 321
First Revised Sheet No. 538
First Revised Sheet No. 577
Fourth Revised Sheet No. 302
Second Revised Sheet No. 341
First Revised Sheet No. 558

National states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the states of New York, Ohio, Pennsylvania, Delaware and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-663 Filed 1-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-16-000, 001]

National Fuel Gas Supply Corp.; Proposed Tariff Changes

January 7, 1987.

Take notice that on December 31, 1986, National Fuel Gas Supply Corporation ("National") tendered for filing the following revised tariff sheet as part of its FERC Gas Tariff, First Revised Volume No. 1, to be effective February 1, 1987:

Eighth Revised Sheet No. 4

National states that the purpose of Eighth Revised Sheet No. 4 is to reflect a net decrease of 57.84 cents per Dth. This change consists of a decrease in current purchase gas cost of 43.49 cents per Dth, and an increase in the purchase gas cost surcharge credit adjustment of 14.35 cents per Dth.

National states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the states of New York, Ohio, Pennsylvania, Delaware and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Eenergy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before January 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-664 Filed 1-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA87-2-17-000, 001]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 7, 1987.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on December 31, 1986 tendered for filing as a part of its FERC Gas Tariff, six copies each of the following tariff sheets:

Fourth Revised Volume No. 1

Eighty-third Revised Sheet No. 14
Eighty-third Revised Sheet No. 14A
Eighty-third Revised Sheet No. 14B
Eighty-third Revised Sheet No. 14C
Eighty-third Revised Sheet No. 14D

Original Volume No. 2

Twenty-fourth Revised Sheet No. 235
Sixteenth Revised Sheet No. 241
Twenty-fifth Revised Sheet No. 322

The above tariff sheets are being issued pursuant to section 23, Purchased Gas Cost Adjustment, and section 27, Electric Power Cost (EPC) Adjustment, contained in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff.

The changes proposed in this filing consist of:

(1) A PGA decrease of $.362/dth in the Demand-1 component of Texas Eastern's rates and increases of $.0034/dth in the Demand-2 component and $.0014/dth in the commodity component pursuant to section 23 of Texas Eastern's tariff based upon an overall decrease in the projected cost of gas purchased from producers and pipeline suppliers and a negative balance in Account 191 as of October 31, 1986;

(2) Projected Incremental Pricing Surcharges are zero for the period February, 1987 through July, 1987, pursuant to section 23 of Texas Eastern's tariff and the Commission's regulations; and

(3) A change in rates for sales and transportation services pursuant to section 27 of Texas Eastern's tariff to reflect the projected annual electric power cost incurred in the operation of transmission compressor stations with electric motor prime movers for the 12 months beginning February 1, 1987 and to reflect the EPC surcharge which is designed to clear the latest balance in the Deferred EPC account as of October 31, 1986.

Under the new pricing structure of the ProGas Limited contract dated May 17, 1979 Texas Eastern's payments to ProGas Limited involve a fixed monthly demand charge as well as a commodity charge based upon the quantity of gas purchased. Consistent with the treatment accorded charges from its pipeline suppliers Texas Eastern has reflected in the PGA adjustment proposed in this filing the cost of gas purchased from ProGas Limited on an "as billed" basis. In the instant filing Texas Eastern's total annual demand payments to ProGas Limited equal $10,485,000.

The Commission's order issued January 31, 1984 in Texas Eastern's Docket No. TA84-1-17-001 required Texas Eastern to eliminate estimated balances for the month of November, 1983 from the Deferred Gas Cost Account Balance (Account 191) for the purpose of the surcharge calculation and further required Texas Eastern to continue this methodology in all future PGA filings. In light of this order and discussions between Texas Eastern and the Commission Staff, Texas Eastern in this instant filing is using the six months ended October 31, 1986 Account 191 balance, exclusive of October, 1986 estimates, for the surcharge calculation.

The proposed effective date of the above tariff sheets is February 1, 1987.

Texas Eastern respectfully requests waiver of any Regulations that the Commission may deem necessary to accept the above tariff sheets to be effective on February 1, 1987.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-659 Filed 1-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA87-2-18-000, 001]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff Sheets

January 7, 1987.

Take notice that on December 31, 1986 Texas Gas Transmision Corporation (Texas Gas) tendered for filing Sixth Revised Sheet Nos. 10 and 10A, and Fourth Revised Sheet No. 14 to its FERC Gas Tariff, Original Volume No. 1.

These tariff sheets reflect a reduction of purchased gas costs pursuant to the Purchased Gas Adjustment clause of Texas Gas' FERC Gas Tariff and are proposed to be effective February 1, 1987.

Copies of the filing were served upon Texas Gas' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-665 Filed 1-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-52-000, 001]

Western Gas Interstate Co.; Tariff Filing

January 7, 1987.Q04

Take notice that on December 31, 1986, Western Gas Interstate Company ("Western") submitted for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Sixth Revised Sheet No. 10
Sixth Revised Sheet No. 11

The proposed effective date is February 1, 1987.

Western states that the proposed change in its rates is being filed pursuant to its Purchased Gas Adjustment Clause to its FERC Gas Tariff which permits the recovery of changes in its cost of gas and of unrecovered purchased gas costs. Western further states that the proposed changes provide for a decrease in its cost of gas under its Rate Schedule G-N of 1.63 cents per Mcf and a decrease in the cost of gas under its Rate Schedule G-S of 7.89 cents per Mcf.

Further, Western states that as to its calculation of the cost of gas under Rate Schedule G-S, it is using a weighted average cost method in calculating the cost of spot market gas purchases from EL Paso Gas Marketing Company. Western asserts that this method of calculation provides a more accurate reflection of the cost of such gas purchases than the method currently set forth in its tariff and provides overall pricing stability to its customers. Consequently, Western is requesting waiver of its PGA provisions and the Commission's PGA Regulations in order to effect the proposed method of calculating the cost of spot purchases.

Finally, Western states that copies of this filing were served on its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-662 Filed 1-12-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3142-5]

Consideration of Establishing an Advisory Committee to Negotiate Proposed Regulations Implementing the Asbestos Hazard Emergency Response Act (AHERA) of 1986

SUMMARY: EPA is considering establishing an Advisory Committee under the Federal Advisory Committee Act (FACA). The Committee's purpose would be to negotiate issues leading to a Notice of Proposed Rulemaking pertaining to the inspection and abatement of asbestos-containing materials (ACM) in public and private schools, as required by the Asbestos Hazard Emergency Response Act (AHERA) of 1986. The Committee would consist of representatives of parties with definable interests in the outcome of the proposed rule. EPA has scheduled an Organizational Meeting for January 23, 1987, starting at 9:30 a.m. and running until completion, at the Skyline Inn, I and South Capital Streets SW., Main Conference Room, Washington, DC. This meeting is open, and any likely participants in the negotiations of the AHERA regulations are encouraged to attend. EPA requests comment on this Notice.

DATE: EPA must receive comments and suggestions by January 26, 1987.

ADDRESS: Three copies of comments should be submitted to: Docket Clerk, Public Information Office (TS-793), Office of Toxic Substances, U.S. EPA, Room NE-G004, 401 M Street, SW Washington, DC 20460.

Comments should include document control number OPTS-62048B. Docket No. OPTS-62048B, containing materials relevant to this rulemaking, is located in Room NE-G004, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket may be inspected between 9 a.m. and 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION ON THIS ITEM, CONTACT: Kathy Tyson, Deputy Director, Regulatory Negotiation Project, U.S.E.P.A. (PM-223), 401 M Street SW., Washington, DC 20460, (202) 382-5479.

Ms. Tyson is also the contact for general information on EPA's Regulatory Negotiation Project.

SUPPLEMENTARY INFORMATION:

Outline of Notice

I. *Project Background*
- A. The Concept of Regulatory Negotiation
- B. Completed and Current Negotiations

II. *Item Under Consideration*
- A. Regulations Under AHERA as a Negotiation Item
  - 1. Need for Standards
  - 2. Selection as a Negotiation Item
  - 3. Organizational Meeting
- B. Key Issues for Negotiation

III. *Formation of a Negotiation Committee*
- A. Request for Public Comment
- B. Procedure for Establishing an Advisory Committee
- C. Participants
- D. Final Notice
- E. Tentative Schedule

IV. *Procedures for Conducting Negotiations*
- A. Facilitator
- B. Good Faith Negotiation
- C. Administrative Support and Meetings
- D. Defining Consensus
- E. Record of Meetings
- F. Committee Procedures
- G. Failure of Advisory Committee to Reach Consensus

Notice:

I. Projected Background

A. The Concept of Regulatory Negotiation

On February 22, 1983, EPA announced in the **Federal Register**, 48 FR 7494-7495, that it was beginning a project to

explore the extent to which negotiations among interested parties could serve as an alternative to its current rulemaking process—an alternative that could better conserve time and resources and minimize costly litigation.

The goal of each negotiation is to reach a consensus on which to base a Notice of Proposed Rulemaking (NPRM). EPA's promise is to use any consensus that is justified, and within its statutory authority, as the basis of the proposal. Negotiations are to be conducted through Advisory Committees chartered under the Federal Advisory Committee Act (FACA). All procedural requirements of the Administrative Procedure Act and other applicable statutes continue to apply.

A senior official from the EPA office responsible for developing the rule acts as chief negotiator for EPA. Individuals representing definable interests in the regulated community, enforcement officials, and other affected stakeholders negotiate on behalf of their constituencies. A neutral facilitator chairs the negotiations, keeps the process moving smoothly, and assists in resolving disaputes.

EPA's experience to date has shown that for proper items, this process can produce better regulations, use all parties' time and resources more wisely, and reduce litigation and uncertainty compared to the standard rulemaking process.

B. Completed and Current Negotiations

EPA has already completed four regulatory negotiations. Two negotiations are currently underway. The completed negotiations concerned Nonconformance Penalties under the Clean Air Act, Emergency Pesticide Exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Farmworker Protection Standards for Agricultural Pesticides under FIFRA, and New Source Performance Standards for Woodburning Stoves under the Clean Air Act. The current negotiations involve Major and Minor Modifications of Resource Conservation and Recovery Act (RCRA) Permits, and Restrictions in Underground Injection of Hazardous Wastes under RCRA.

II. Item Under Consideration

A. Regulations Under AHERA as a Negotiation Item

1. Need for Standards

On October 22, 1986, President Reagan signed into law the Asbestos Hazard Emergency Response Act (AHERA) of 1986, Public Law 99–519. Under AHERA, EPA is directed to promulgate regulations which provide a framework for addressing asbestos problems in public and private schools. The statute sets deadlines of 180 days after enactment for EPA to issue proposed rules (April 20, 1987) and 360 days for issuance of final rules (October 20, 1987). EPA must develop regulations for: (1) Inspecting all public and private school buildings for asbestos-containing materials (ACM); (2) identifying circumstances which require response actions; (3) describing the appropriate response actions; (4) implementing response actions; (5) establishing a periodic surveillance program for ACM; (6) establishing an operations and maintenance program for friable ACM; (7) preparing and implementing asbestos management plans (by local educational agencies) and submitting them to State Governors, who may review the plans and approve or disapprove them; and (8) transporting and disposing of waste ACM from schools.

2. Selection as a Negotiation Item

EPA held an open meeting on December 8, 1986, and has made preliminary inquiries among potential parties and representatives of identified interests to determine if EPA's initial candidate selection criteria are satisfied. To qualify under EPA's selection criteria, an item must:

- Be planned for proposal;
- Have a relatively small number of identifiable parties, in an appropriate balance and mix, who have a good faith interest in negotiating a consensus;
- Present a limited number of related issues, for which sufficient information is available for resolution; and
- Have a time factor that lends some urgency to issuing the regulation.

On the basis of the open meeting and preliminary inquiries, EPA believes that negotiation is worth considering and that this item tentatively meets its initial selection criteria. This item is at the pre-proposal stage; affected parties and interests are limited in number; and an appropriate balance and mix representing these interests is identifiable (see III.C.). EPA has contacted representatives of a range of potential parties and believes that are interested in negotiating this item in good faith. EPA's Office of Toxic Substances has identified a number of basic issues for which sufficient information is or soon will be in hand for resolution (see next section). Finally, EPA is committed to developing regulations in accordance with AHERA's stringent time requirements, which includes proposing rules no later than April 20, 1987.

3. Organizational Meeting

The purpose of the Organizational Meeting is to determine: (1) Whether it is feasible to use regulatory negotiation to develop proposed rules, especially in light of the April 20, 1987 statutory deadline; (2) What time and resources parties would need to devote to meet the April 20, 1987, deadline; (3) Whether EPA should use approaches other than full negotiation for some or all of the issues; and (4) Whether the Committee can represent a balanced mix of parties and interests and stay within the prescribed FACA limit of 25 members. There will also be an opportunity to raise and address any procedural or other questions.

B. Key Issues for Negotiation

EPA anticipates that the following will be the key issues:

(1) What process should EPA establish for determining whether all or part of a State asbestos program should be granted a waiver from AHERA requirements?

(2) For local education agencies (LEA) located in states which do not receive a waiver from AHERA inspection requirements, how do they document previous inspections in order to be exempt from AHERA's inspection regulations? Can an LEA which previously inspected its buildings be exempted from AHERA requirements if the inspections did not check for non-friable asbestos?

(3) Should inspections include checking for non-friable ACM in products other than building materials (e.g., products used in labs or industrial art shops)?

(4) Should EPA allow the person who developed the LEA management plan to perform LEA inspections? Should EPA require LEA's to employ abatement contractors that have no financial relationship with the inspector or management plan developer, so as to avoid potential conflicts of interest that could lead to unnecessary abatement projects or increased costs?

(5) Should LEA employees be prohibited from becoming accredited inspectors, management plan developers, and/or abatement workers or supervisors?

(6) How shoud EPA apply the AHERA standard of "least burdensome methods which protect human health and the environment"?

(7) Of the many practices EPA could include in an operations and maintenance program, which should be required as part of the AHERA regulations?

(8) What statistical method or numerical standard should EPA adopt to prohibit occupany of a building area after completion of an abatement project?

III. Formation of a Negotiating Committee

A. Request for Public Comment

EPA requests public comment on whether the Agency:

- Has adequately identified the key issues;
- Has identified appropriate participants (listed below) who will adequately represent the interests affected by the negotiations;
- Should use regulatory negotiation to develop these proposed rules; and
- Should establish a Federal Advisory Committee.

B. Procedures for Establishing an Advisory Committee

Generally, a Federal agency must comply with the requirements of FACA when it establishes or uses a group which includes nonfederal members as a source of advice. Under FACA, an Advisory Committee is established only after consulting with and receiving a charter from GSA. EPA would form the Committee and begin negotiations only when this approval process is complete.

C. Participants

EPA's preference is that the negotiating group not exceed 25 participants. A number larger than this could make it difficult to conduct effective negotiations. EPA has tentatively identified the following as groups whose interests should be represented.

Teachers
Parents/Children
School Boards
Public School Administrators
Private Schools
Service Employees
Asbestos Industry
Asbestos Abatement Workers
Asbestos Abatement Contractors and Designers
State Government
EPA

Representatives of these groups have not necessarily agreed to participate.

One purpose of this Notice is to help determine whether the standards that EPA is developing would substantially affect interests not adequately represented by the categories listed above. We invite comments on this list. We do not believe that each potentially affected organization or individual must necessarily have its own representative. However, we do believe that each interest must be adequately represented. Moreover, the group as a whole must reflect a proper balance and mix of affected parties and interests.

Additional individuals or representatives of an interest may request membership or representation in the negotiating group, in response to this Notice. The Agency, in consultation with the convenor, will determine whether that individual or representative should be added to the group. EPA will make that decision based on whether the individual or interest:

- Would be substantially affected by the rule; and
- Is or is not already adequately represented in the negotiating group.

D. Final Notice

After evaluating the results of the Organizational Meeting and reviewing any comments on this Notice and requests for representation, EPA will issue a final notice. That notice will announce whether or not, based on the organizational meeting, public comments, and other relevant considerations, EPA will establish an Advisory Committee. The negotiation process itself will begin only after the Committee is chartered and notice is published in the **Federal Register.**

E. Tentative Schedule

If EPA decides to form a Committee and proceed with negotiations, we tentatively plan to hold the first meeting of the Advisory Committee on February 10–11, 1987, from 9:30 a.m. until completion each day, at The Conservation Foundation, 1255 23rd Street, NW., First Floor Library, Washington, DC. At this first meeting participants would complete action on any procedural matters remaining from the organizational meeting, determine how best to address the principal issues, and begin to address them.

To ensure that EPA can meet the statutory deadline, we intend to terminate the activities of the Committee if it does not reach consensus by April 3, 1987.

IV. Procedures for Conducting Negotiations

A. Facilitator

EPA will use a facilitator. The facilitator will not be involved with the substantive development or enforcement of the regulation. The facilitator's role is to:

- Chair negotiating sessions;
- Help the negotiation process run smoothly; and
- Help participants define and reach consensus.

B. Good Faith Negotiation

Since participants must be willing to negotiate in good faith and must be authorized to do so, each organization must designate a senior official to represent its interests. This applies to EPA as well, and the Agency will designate a senior official of the Office of Toxic Substances as its representative.

C. Administrative Support and Meetings

EPA's Regulation Management Branch will supply logistical, administrative, and management support. All meetings will be held in the Washington area. To support the negotiations, EPA has pledged funds to a resource pool. EPA expects that funds from private foundations would also be available. Committee members may use these funds for such activities as training, technical support, computer simulations, and other assistance which they deem useful. To give committee members maximum freedom consistent with applicable legal constraints, they will choose the procedures to use for making and approving requests for funds.

D. Defining Consensus

The goal of the negotiating process is consensus. In the negotiations completed to date, consensus has meant that each interest concurs in the result. We expect the participants to fashion their own working definition of this term.

E. Record of Meetings

In accordance with FACA's requirements, EPA will keep a record of all Advisory Committee meetings. This record will be placed in the public docket for this rulemaking. EPA will announce Committee meetings in the **Federal Register**. Such meetings will generally be open to the public.

F. Committee Procedures

Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, the members will establish the detailed procedures for Committee meetings which they consider most appropriate.

G. Failure of Advisory Committee to Reach Consensus

In the event the Committee is unable to reach consensus, EPA will proceed to develop its own proposal.

Dated: January 8, 1987.

Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 87-781 Filed 1-12-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

January 5, 1987.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0273
Title: Section 94.43, Procedure for obtaining special temporary authority
Action: Extension
Respondents: Broadcast licenses
Estimated Annual Burden: 125 Responses; 125 Hours

OMB Number: 3060-0307
Title: Section 90.629(a), Extended implementation schedules
Action: Extension
Respondents: Certain applicants requesting either trunked or conventional frequencies
Estimated Annual Burden: 50 Responses; 50 Hours

OMB Number: 3060-0299
Title: Section 94.51, (Private Microwave) Time to construct
Action: Extension
Respondents: Licensees of private microwave stations
Estimated Annual Burden: 50 Responses; 17 Hours

OMB Number: 3060-0312
Title: Section 94.27(b), (Private Microwave) Application and Standard Forms
Action: Extension
Respondents: Licensees of private microwave stations
Estimated Annual Burden: 30 Responses; 5 Hours

OMB Number: 3060-0280
Title: Section 94.633(f) + (g), Conventional systems loading requirements (wide area systems)
Action: Extension
Respondents: Licensees of conventional systems
Estimated Annual Burden: 15 Responses; 15 Hours

OMB Number: 3060-0290
Title: Section 94.517, Developmental Operation—Report of Operation
Action: Extension
Respondents: Developmental authorization licensees
Estimated Annual Burden: 100 Responses; 200 Hours

OMB Number: 3060-0301
Title: Section 94.13, (Private Microwave) Station records
Action: Extension
Respondents: Licensees of private microwave stations
Estimated Annual Burden: 17,886 Recordkeepers; 2,981 Hours

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 87-650 Filed 1-12-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-REP-5-IL-6]

Illinois Plan for Radiological Accidents (Volumes I and VIII)

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt of plan.

SUMMARY: For operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has the responsibility for reviewing the State and local government plans, the State of Illinois has submitted its plan for radiological accidents to the FEMA Regional Office. Volumes I and VIII of this plan provide the required offsite emergency response to an accident at the Clinton Power Station located in DeWitt County, Illinois, which impacts on DeWitt, Macon, McLean and Piatt Counties within the State of Illinois.

Date Plans Received: December 5, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Connor, Acting Regional Director, FEMA Region V, 300 South Wacker Drive, 24th Floor, Chicago, Illinois, 60606, (312) 353-1500.

SUPPLEMENTARY INFORMATION: In support of the Federal requirement for emergency response plans, FEMA Rule 44 CFR 350.12 (FEMA Headquarters Review and Approval) describes the procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to the Rule, the Illinois Plan for Radiological Accidents (Volumes I and VIII) were received by FEMA Region V. Included are plans for local governments which are wholly or partially within the plume exposure pathway emergency planning zone. For the Clinton Power Station, plans are included for DeWitt, Macon, McLean and Piatt Counties.

Copies of the plans are available for review at the FEMA Region V Technological Hazards Branch, Natural and Techological Hazards Division, 300 South Wacker Drive, 24th Floor, Chicago, Illinois, 60606. Copies will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in FEMA Rule 44 CFR Part 5. There are 292 pages in Volume I and 320 pages in Volume VIII of the document; reproduction fees are $.10 a page payable with the request for copy.

Comments on the Illinois Plan for Radiological Accidents (Volumes I and VIII) may be submitted in writing to Mr. Robert E. Connor, Acting Regional Director, at the above address within thirty days of this **Federal Register** notice.

FEMA Rule 44 CFR 350.10 calls for a public meeting prior to approval of the plan. A public meeting will be held on the Illinois Plan for Radiological Accidents for the Clinton Power Station on February 25, 1987, at 7:00 p.m., at the Clinton Power Station Visitors Center, Clinton, Illinois.

Robert E. Connor,

Acting Regional Director.

December 30, 1986.

[FR Doc. 87-672 Filed 1-12-87; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

Chase Manhattan Corp; Proposal To Underwrite and Deal in Certain Securities to a Limited Extent

Chase Manhattan Corporation ("Applicant"), New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage through Chase Manhattan Securities, Inc. ("Company"), New York, New York, in the activities of underwriting and

dealing in, to a limited extent, the following securities which are eligible for purchase by banks for their own account but not eligible for banks to underwrite and deal in (hereinafter "ineligible securities"):

(1) Municipal revenue obligations (including certain industrial development bonds);

(2) Mortgage-related securities (obligations secured by, or representing interests in, residential real estate mortgages);

(3) Consumer-receivable-related securities (obligations secured by, or representing an interest in, loans or receivables of a type generally made to or due from consumers) (hereinafter "CRRs").

Company, presently operating as Chase Manhattan Treasury Corporation, acts as agent or broker on a disclosed basis for Applicant and certain of its subsidiaries, pursuant to section 4(c)(1)(C) of the Act, in the solicitation and receipt of orders primarily from institutional customers for: (1) Commercial paper of the Applicant; (2) U.S. government securities; (3) certificates of deposit; (4) bankers' acceptances; and (5) foreign exchange contracts.

Applicant has also applied for approval under § 225.23(a) (1) and (2) of Regulation Y (12 CFR 225.23(a) (1) and (2)) to engage, *de novo*, through Company, in underwriting and dealing in securities and money market instruments that banks are expressly authorized to underwrite and deal in under section 16 of the Glass-Steagall Act (12 U.S.C. 24 Seventh), including U.S. government obligations and general obligations of states and their political subdivisions, bankers' acceptances and certificates of deposit (hereinafter "eligible securities").

Applicant's principal banking subsidiary, Chase Manhattan Bank ("Bank"), currently underwrites and deals in bankers' acceptances, certificates of deposit and short-term eligible securities of states and their political subdivisions. Bank also conducts such activities through its indirect wholly-owned operating subsidiary, Chase Manhattan Government Securities, Inc. (hereinafter "CMGSI"), which currently: Underwrites and deals in eligible securities issued or guaranteed by the U.S. government, its agencies and instrumentalities; buys and sells futures contracts; and buys, sells and writes options related to the foregoing. CMGSI's parent, Chase Manhattan Capital Markets Corporation ("CMCMC"), another indirect wholly-owned subsidiary of Bank, also currently underwrites and deals in eligible securities of states and their political subdivisions.

Applicant proposes that Company acquire all of the existing assets, businesses and operations relating to underwriting and dealing in eligible securities of Bank and its foregoing subsidiaries. Applicant expects to ultimately conduct virtually all of its underwriting and dealing activities involving eligible securities through Company.

Upon consummation of the proposal, Company would commence underwriting and dealing in both ineligible and eligible securities. Company would conduct these activities on a nationwide basis from its offices located in New York, California, Illinois, Massachusetts, Pennsylvania and Texas. Company may establish offices in other locations as it deems necessary and appropriate.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has not previously approved underwriting and dealing in the proposed ineligible securities for bank holding companies.

Applicant states that the proposed activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto on the basis of its belief that banks engage in activities that it believes are functionally and operationally similar to those involved in the application, such as underwriting and dealing in eligible U.S. government and municipal securities, mortgage-backed securities and money market instruments; originating, purchasing and pooling mortgage and consumer loans; and assessing credit and interest rate risk.

In determining whether a particular activity is a proper incident to banking, the Board considers whether the performance of the activity by an affiliate of a holding company 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 interest or unsound banking practices. Applicant maintains that permitting bank holding companies to engage in the proposed activities would be procompetitive and would enable holding companies to provide increased services to customers. In addition, Applicant believes the proposal would not result in adverse effects.

The application also presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as Chase Manhattan Bank, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities.

Applicant states that it would not be "engaged principally" in such activities on the basis of restrictions that would limit the amount of the proposed activity relative to the total business conducted by Company and relative to the total market in such activity.

During any two-calendar-year period, Company's underwriting and dealing in ineligible securities (hereinafter "ineligible activities") will account for no more than 10 percent of its total activities. Applicant proposes to measure the extent to which Company's total activities is attributable to ineligible activities by comparing:

(1) The dollar volume of underwriting commitments (or underwriting or primary sales if larger) and dealer sales attributable to ineligible activities, with the total dollar volume of all of Company's activities; and

(2) The average assets acquired in connection with ineligible activities attributable to underwriting commitments (or underwriting sales if larger) and dealer sales with the average assets acquired in connection with all of Company's activities.

Applicant proposes to measure the amount of dollar volume and average assets attributable to Company's underwriting commitments or sales as well as to dealer sales on a "five-year bond equivalency" basis, which weighs short maturity instruments less heavily than long term instruments.

Applicant contends that such an equivalent would avoid any distortion of the indices used to measure ineligible activities that might be caused by disproportionate levels of activity in short term securities such as Treasury Bills.

In addition, Company will limit the volume of its ineligible activities so that:

(1) With respect to municipal revenue obligations, the volume of such securities underwritten domestically by Company in each calendar year will not exceed three percent of the total amount of such securities underwritten domestically by all firms during the prior calendar year, and the amount of such securities held by Company for dealing will not exceed at any time three

percent of the total amount of such securities underwritten domestically by all firms during the prior year; and

(2) With respect to mortgage-related securities and CRRs, taken together, the volume of such securities underwritten domestically by Company in each calendar year will not exceed three percent of the total amount of such securities underwritten domestically by all firms during the prior year, and the amount of such securities held by Company for dealing will not exceed at any time three percent of the total amount of such securities underwritten domestically by all firms during the prior year.

Applicant further contends that section 20 of the Glass-Steagall Act does not apply to its proposal that Company, in addition to underwriting, will "deal" in ineligible securities. Applicant submits that section 20 does not apply to "dealing;" so long as Company's dealing does not involve the public distribution of newly issued securities but is restricted to trading in previously distributed securities, since section 20 does not refer to "dealing," but to the "issue, flotation, underwriting, public sale or distribution" of securities.

In publishing Chase Manhattan's proposal for comment, the Board does not take any position on the "engaged principally" issue under the Glass-Steagall Act or other issues raised by the proposal under the Bank Holding Company Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal is consistent or inconsistent with the Glass-Steagall Act or that the proposal meets or is likely to meet the standards of the Bank Holding Company Act. The Board previously published for comment applications by Citicorp (50 FR 20847), J.P. Morgan & Co. Incorporated (50 FR 41025), Bankers Trust (51 FR 16590) and Chemical New York Corporation (51 FR 42300) to underwrite and deal in the proposed ineligible securities. The Board previously ordered a hearing on the Citicorp, J.P. Morgan and Bankers Trust applications, which is scheduled to take place on February 3, 1987.

Comments are requested on the scope of activity permitted by the phrase "engaged principally" under the Glass-Steagall Act, including whether the phrase contemplates the type of limitations involved in the application, which are based on Applicant's market share and on a percentage of the affiliate's total business activities. The Board also seeks comment on whether the term "engaged principally" in section 20 would preclude a member bank affiliate from engaging in activities restricted by this section on a substantial and regular or nonincidental basis and without regard to the amount of other activities conducted by the affiliate.

Comments are also requested on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be proper incident thereto," and whether the proposal as a whole 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."

Upon the expiration of the public comment period, depending upon the comments received, the Board may wish first to consider the legal issue presented by the application under the Glass-Steagall Act in order to determine whether there is a legal basis for considering whether the activities could be permitted for a bank holding company under the Bank Holding Company Act.

Any request for a hearing on these questions must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why 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.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than February 12, 1987.

Board of Governors of the Federal Reserve System, January 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-616 Filed 1-12-87 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Banks or Bank Holding Companies; Dale DeVries, et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 224.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 28, 1987.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Dale DeVries*, Pearly City, Illinois; Carl Keltner, Pearl City, Illinois; and I. Ronald Lawfer, Stockton, Illinois; to acquire 100 percent of Kent Bancshares, Kent, Illinois.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Daniel K. Conners*, St. Paul, Minnesota; to acquire 100 percent of the voting shares of Otisco Bancshares, Inc., Otisco, Minnesota, and thereby indirectly acquire Otisco State Bank, Otisco, Minnesota.

Board of Governors of the Federal Reserve System, January 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-617 Filed 1-12-87; 8:45 am]

BILLING CODE 6210-01-M

Douglas Bancorp, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the

application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 28, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Douglas Bancorp, Inc.*, Kansas City, Kansas; to engage *de novo* in tax planning and preparation pursuant to § 225.25(b)(21) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-619 Filed 1-12-87; 8:45 am]

BILLING CODE 6210-01-M

Key Centurion Bancshares, Inc., 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 February 3, 1987.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Key Centurion Bancshares, Inc.*, Charleston, West Virginia; to acquire 100 percent of the voting shares of Union Bancorp of West Virginia, Inc., Clarksburg, West Virginia, and thereby indirectly acquire Union National Bank of West Virginia, Clarksburg, West Virgnia, and First National Bank in Philippi, Philippi, West Virginia.

2. *Key Centurion Bancshares, Inc.*, Charleston, West Virginia; to acquire 100 percent of the voting shares of Wayne Bancorp, Inc., Wayne, West Virginia, and thereby indirectly acquire Wayne County Bank, Wayne, West Virginia.

3. *UB Acquisition Company*, Clarksburg, West, Virginia; to acquire 100 percent of the voting shares of Union Bancorp of West Virginia, Inc., Clarksburg, West Virginia, and thereby indirectly acquire Union National Bank of West Virginia, Clarksburg, West Virginia, and First National Bank in Philippi, Philippi, West Virginia.

4. *WB Company*, Wayne, West Virgina; to acquire 100 percent of the voting shares of Wayne Bancorp, Inc., Wayne, West Virgnia, and thereby indirectly acquire Wayne County Bank Wayne, West Virginia.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Bancorp, Inc.*, Yates City, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Yates City, Yates City, Illinois.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Commerce Bancshare, Inc.*, Greenwood, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Commerce, Greenwood, Mississippi.

Comments on this application must be received by February 2, 1987.

Board of Governors of the Federal Reserve System, January 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-618 Filed 1-12-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Maximum Allowable Actual Charges

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: HCFA is confirming its decision to use the median charge for physicians' services during the base quarter beginning April 1, 1984, in calculating the maximum allowable actual charge (MAAC). However, physicians will not be subject to sanctions if they comply with a MAAC based on the weighted average rather than the median of base quarter charges.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Charles Booth, (301) 594-9760.

SUPPLEMENTARY INFORMATION: Section 9331 of the Omnibus Budget Reconciliation Act of 1986 ("OBRA-86") (Pub. L. No. 99-509) established a limit on the charges for physicians' services furnished to Medicare beneficiaries by physicians who are not Medicare participating physicians. This limit, called the maximum allowable actual charge (MAAC), is set under the statute by reference to each physician's actual charges during the calendar quarter beginning on April 1, 1984. Under section 1842(j)(1)(C)(vi) of the Social Security Act, as added by OBRA-86, the Secretary was given the unconditional option of using the weighted average or the median of charges during that period for purposes of establishing the MAAC. In a letter sent to all physicians by Medicare carriers, it was stated that the median would be used.

We believe that the statute afforded this option to the Secretary because Congress recognized the operational difficulties that would be encountered if Medicare carriers had to compute the weighted average rather than the median of the charges involved in the short time available prior to implementation of the statute. Because median charges are already calculated for other purposes, it is significantly

easier for the carriers to compute the median charge for this purpose than to construct new systems for calculating weighted averages. It was for this reason that we elected the statutory option to use the median charge in computing the MAACs.

Most MAACs will not differ significantly whether the median or the weighted average charge is used. Since the median option was chosen for operational rather than policy reasons, however, we believe it would be inappropriate to disadvantage any physician who is adversely affected by that selection and who wishes to charge in accordance with a self-calculated MAAC based on a weighted average of base quarter charges. Accordingly, while Medicare will continue to compute the MAACs by using the median, it is our policy that no sanction action will be initiated against a physician if it is determined that the physician would have been in compliance had the weighted average been used.

In our view, HCFA's use of the median rather than the weighted average in computing the MAACs does not constitute a "rule" within the meaning of the Administrative Procedure Act. This is so because, among other reasons, Congress has already determined that either approach is acceptable and committed to the Secretary's absolute discretion the choice of which of the two Congressionally devised formulas to use. If this action is nevertheless considered to be a rule subject to the requirement for notice and opportunity for public comment, we find that good cause exists to waive those requirements on the grounds that notice and comment procedures would be unnecessary, impracticable, and contrary to the public interest. OBRA-86 was enacted on October 21, 1986, and required an option to be elected, and program materials to be prepared and distributed, before the January 1, 1987 effective date of the MAAC limits. Moreover, we believe it is in the public interest to give physicians as much information as possible during the time prior to January 1 in which the statute allows physicians to choose whether to become Medicare participating physicians. It was therefore necessary to reach final decisions about implementation of the statute well before the January 1 effective date. Thus, there was insufficient time after enactment of the statute to utilize notice-and-comment procedures on this issue.

William L. Roper,
Administrator, Health Care Financing Administration.

Dated: January 6, 1987.

Otis R. Bowen,
Secretary.

Aproved: January 7, 1987.

[FR Doc. 87-724 Filed 1-2-87; 8:45 am]

BILLING CODE 4120-01-M

Health Resources and Services Administration

Final Funding Preferences for Grants for Geriatric Education Centers

The Health Resources and Services Administration announces the final funding preferences which will be applied among other factors in the distribution of grant awards in Fiscal Year 1987 for Grants for Geriatric Education Centers, section 788(d) of the Public Health Service Act, as amended by Pub. L. 99-129.

Section 788(d) authorizes grants to support the improvement and development of areawide organizational arrangements called Geriatric Education Centers focused on strengthening and coordinating multidisciplinary training in geriatric health care involving several health professions. These centers are established to faciliate training of medical, dental, optometric, pharmacy, podiatric, nursing, and appropriate allied health and public health faculty, students, and practitioners in the diagnosis, treatment, and prevention of diseases and other health problems of the aged.

Functioning within a self-defined geographic area, which may be a metroplitan area, a State or portion thereof, or an area including all or part of two or more States, a Geriatric Education Center provides the health professions educational community within the area with multidisciplinary services which:

(a) Improve the training of health professionals in geriatrics;

(b) Develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

(c) Expand and strengthen instruction in methods of such treatment;

(d) Support the training and retraining of faculty or provide such instruction;

(e) Support continuing education of health professionals and allied health professionals who provide such treatment; and

(f) Establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

Proposed funding preferences were published in the **Federal Register** of September 29, 1986 (51 FR 34505) for public comment. No comments were received during the 30-day comment period. Listed below are the final funding preferences which will be applied in the distribution of grant awards in Fiscal Year 1987:

(1) Projects which will provide training for faculty from four or more health professions, at least one of which must be allopathic or osteopathic medicine, with respect to the treatment of health problems of the elderly by multidisciplinary teams of health professionals.

(2) Projects which currently have or plan to provide for high degree of areawide collaboration as evidenced by:

(a) Significant multidisciplinary health care educational activities;

(b) Letters of agreement or assurance, among participating entities, such as professional schools, teaching facilities and other clinical sites, professional associations, and State and local health agencies; and

(c) Organizational or other arrangements for participation by the social and behavioral science disciplines.

(3) Preferences will be given to those centers that are located in, or proposed to provide substantial educational services to a primary medical care manpower shortage area(s) designated under section 332 of the Public Health Service Act.

(4) Additonally, preference will be given to applicants from institutions that demonstrate a commitment to increased minority participation in their program or show evidence of efforts to recruit minority faculty.

This program is not subject to the provisions of Executive Order 12371, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Dated: January 7, 1987.

David N. Sundwall,
Administrator, Assistant Surgeon General.

[FR Doc. 87-625 Filed 1-12-87; 8:45 am]

BILLING CODE 4160-15-M

Final Special Consideration for Grants for Residency Training in General Internal Medicine and General Pediatrics

The Health Resources and Services Administration announces the final special consideration for Grants for

Residency Training in General Internal Medicine and General Pediatrics for Fiscal Year 1987, section 784 of the Public Health Service Act, as amended by Pub. L. 99-129.

Section 784 authorizes grants for planning, developing and operating approved residency training programs which emphasize the training of residents for the practice of general internal medicine or general pediatrics. In addition, Section 784 authorizes assistance in meeting the cost of supporting residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

Section 784, as amended by Pub. L. 99-129, requires that the Secretary shall give priority to applicants that demonstrate to the satisfaction of the Secretary a commitment to general internal medicine and general pediatrics in their medical education training programs.

In addition, § 57.3106(b) of the program regulations require that preference will be given to projects in which:

1. Substantial training experiences are provided in settings where physician assistants or nurse practioners, or both, are used as part of a health care team.

2. Administrative and educational resources are coordinated for the use of a program of general internal medicine and a program of general pediatrics which are to be conducted within a single project.

3. Substantial portions of a project are conducted in a primiary medical care manpower shortage area(s) designated under section 332 of the Public Health Service Act and in particular, on which is located in a Metropolitan Statistical Area, as defined by the Office of Federal Statistical Policy and Standards, Department of Commerce; or are conducted in an Area Health Education Center funded, at least in part, under section 781 of the Act.

A proposed special consideration was published for public comment in the **Federal Register** of October 3, 1986 (51 35433) which amended a statement in a previous notice published on September 12, 1986 (51 32541). No comments were received during the 30-day comment period.

The following final special consideration will be applied in the distribution of grant awards for Fiscal Year 1987:

Special consideration will be given to applicants who either demonstrate an increase in minority and disadvantaged residents or show evidence of efforts to recruit minority and disadvantaged residents into their medical education programs.

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Dated: January 7, 1987.

David N. Sundwall,

Adminstrator, Assistant Surgeon General.

[FR Doc. 87-626 Filed 1-12-87; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for OMB Review

The proposal for the collection of information listed has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirements 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 directly to the OMB Interior Desk Officer at (202) 395-7340 and the Bureau Clearance Officer at (202) 343-3357 Title: Application for Admission of Post High School Education Programs. Abstract: This information is needed to determine eligibility of Native American Indian College students for admission to postsecondary institutions operated by the Bureau. If this information is not provided or if eligibility criteria are not met then the student will be denied admission. The respondents are Native Americans and Alaskan Natives who need to attend Federal postsecondary schools.

Frequency: Annually

Description of Respondents: Indian/Alaskan Native students applying for admission to postsecondary schools

Annual Response: 3,000

Annual Burden Hours: 750 hours

Bureau Clearance Officer: Cathie Martin (202) 343-3357.

Henrietta Whiteman,

Deputy to the Assistant Secretary/Director—Indian Affairs (Indian Education Programs).

[FR Doc. 87-702 Filed 1-12-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AZ-940-07-4212-13; A-21022]

Conveyance of Public Land; Reconveyed Land Opened to Entry in Mohave County, AZ

Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), the following described land was transferred out of Federal ownership in exchange for privately-owned land. The land transferred into private ownership is described as follows:

Gila and Salt River Meridian, Arizona

T. 20 N., R. 21 W.,
Sec. 18, lots 2 and 3, SE¼NW¼NE¼ SW¼.

The area described aggregates 160.64 acres, according to the official plats of surveys of said land, on file in the Bureau of Land Managment.

The land acquired by the United States is described as follows:

Gila and Salt River Meridian, Arizona

T. 23 N., R. 13 W.,
Sec. 23, E½, E½W½, NW¼NW¼, N½SW¼NW¼, N½SW¼SW¼NW¼, SE¼SW¼NW¼, E½ NW¼SW¼, S½ NW¼NW¼SW¼, SW¼NW¼SW¼, SW¼SW¼;
Sec. 25, N½, N½SW¼, NW¼SE¼;
Sec. 27, N½, SW¼, NE¼SE¼, S½SE¼;
Sec. 35, S½.

The area described aggregates 1,990.00 acres, according to the official plats of surveys of said land, on file in the Bureau of Land Managment.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and the acquisition of private land by the Federal Government.

The surface of the land acquired by the Federal Government in this exchange will be open to entry under the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, at 9:00 a.m., thirty days from publication of this notice. The mineral estate is owned by the Santa Fe Pacific Railroad Company and, therefore, will not be subject to entry under the United States Mining or Mineral Leasing Laws.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-731 Filed 1-12-87; 8:45 am]

BILLING CODE 4310-32-M

[MT-930-07-4212-11; M-48437]

Realty Action; Lease of Public Lands for Recreation and Public Purposes; Montana

AGENCY: Bureau of Land Management—Lewistown District Office, Interior.

ACTION: Notice of realty action M-48437—lease of public lands in Phillips County, Montana.

SUMMARY: This Notice of Realty Action is being published to amend the original classification of public lands in Phillips County, Montana. These lands were previously classified suitable for a school and related facilities under the recreation and public purposes act as amended (43 U.S.C. 869 et seq.). A request was made to expand this use to include a fire station and related uses. The following lands have been found suitable for lease for a school to the Malta School District No. 14 and for a fire station and related facilities to the Zortman Firehall, Inc.

Principal Meridian Montana

T. 25 N., R. 25 E.,
Sec. 16, NE¼SE¼SW¼.

Containing 5.7 acres more or less.

The lands are not needed for Federal purposes. Leases are consistent with current BLM land use planning and are in the public interest.

The lease will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. Those rights for powerline and telephone purposes granted to Big Flat Electric Coop M-48783 and M-997; Triangle Telephone Coop M-42864.

Detailed information concerning this action is available to review at the office of the Bureau of Land Management, Lewistown District, Airport Road, Lewistown, Montana 59457.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease or classification of the lands to the District Manager, Lewistown District Office, Airport Road, Lewistown, Montana 59457. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Dated: January 5, 1987.

Wayne Zinne,

District Manager.

[FR Doc. 87-703 Filed 1-2-87; 8:45 am]

BILLING CODE 4310-DN-M

[NM-010-4121-09]

Realty Action; Exchange of Mineral Values in San Juan and McKinley Counties, NM; Extension of Public Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Second Extension of public comment period on mineral exchange.

SUMMARY: On December 12, 1986, a **Federal Register** Notice of Reality Action, (Vol. 51, No. 218, pg. 41025 thru 41026, November 12, 1986), announced the proposed McKinley County Coal Exchange (NM-57802). The project involved the exchange of 4,890.26 acres of Federal coal estate for 6,263.45 acres of coal owned by the Cerrillos Land Company. In addition, Cerrillos Land Company included in the exchange 4,889.69 acres of mineral estate in the Chaco Cultural National Historic Park and Outlier Protection Sites.

The notice identified a 45 day comment period which ended on December 29, 1986. Due to requests for extension of the comment period, an extension of 15 days was granted on December 29, 1986 and a second extension has now been approved.

The public comment period for the Notice of Realty Action is now extended through close of business on February 6, 1987. All other information in the December 12, 1986, **Federal Register** Notice remains unchanged.

FOR FURTHER INFORMATION CONTACT: Bob Muller, Bureau of Land Management, Albuquerque District Office, commercial phone (505) 761-4553, FTS 474-4553.

Dated: January 7, 1987.

L. Paul Applegate,

District Manager.

[FR Doc. 87-627 Filed 1-12-87; 8:45 am]

BILLING CODE 4310-FB-M

[UT-020-07-4212-11; U-54840]

Realty Action; Salt Lake District, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following public lands in Summit County, Utah have been found suitable for lease to Summit County for a garbage collection facility. The lands are to be classified for lease under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.).

Salt Lake Meridian

T. 1 S., R. 7 E.,
Sec. 6: Lots 10, 12.

Containing 5 acres more or less.

This action is a motion by the Bureau to make available lands indentified as not needed for Federal purposes and having potential to support local government needs. Lease or conveyance of the lands for recreational or public purpose use would be in the public interest. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Salt Lake District, 2370 South 2300 West, Salth Lake City, Utah.

Lease or conveyance of the lands will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

4. Any other reservations that the Authorized Officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public lands laws, including the general mining laws, except for lease under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease or classification of the lands to: District Manager, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60

days from the date of publication of this notice.

Deane H. Zeller,

Salt Lake District Manager.

January 6, 1987.

[FR Doc. 87-614 Filed 1-12-87; 8:45 am]

BILLING CODE 4310-DQ-M

[NV-930-07-4410-10]

Resource Management Plans; Shoshone-Eureka Resource Area, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Draft Shoeshone-Eureka Resource Management Plan Amendment, Battle Mountain District, Nevada.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act of 1969, the Battle Mountain District of the Bureau of Land Management has prepared a Resource Management Plan Amendment for the Shoshone-Eureka Resource Area.

SUPPLEMENTARY INFORMATION: The Draft Resource Management Plan Amendment proposes to amend the Shoshone-Eureka Resource Management Plan (RMP). Two alternatives have been prepared for analysis purposes. The Alternatives include a Proposed RMP Amendment, and a No Action Alternative. The Proposed RMP Amendment displays one way to balance livestock grazing use and wildlife habitat needs. The No Action Alternative is the implementation of the Shoshone-Eureka Record of Decision issued in March 1986. The planning area includes the three principal towns of Austin, Battle Mountain, and Eureka, and encompasses most of Lander and Eureka Counties and a portion of Nye County.

DATE: A 90-day comment period will end April 16, 1986.

ADDRESS: Written comments are due to the Battle Mountain District Office, N. 2nd and Scott Streets, P.O. Box 1420, Battle Mountain, Nevada 89820.

FOR FURTHER INFORMATION CONTACT: Terry L. Plummer, District Manager, Bureau of Land Management, P.O. Box 1420, Battle Mountain, Nevada 89820 or telephone (702) 635-5181.

SUPPLEMENTARY INFORMATION:

Public Participation

In addition to written comments, oral comments will be accepted at the following public meetings:

March 10, 1987 7:00 p.m., Battle Mountain, Nevada, Bureau of Land Management, Shoshone-Eureka Conference Room

March 11, 1987 7:00 p.m. Eureka, Nevada, Eureka County Court House

March 12, 1987 7:00 p.m. Reno, Nevada, Holiday Inn Downtown California Room

Location of Planning Documents

Copies of the draft document are available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, 18th and C Streets, Washington, DC 20240

Bureau of Land Management, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520

Bureau of Land Management, North 2nd and Scott Streets, P.O. Box 1420, Battle Mountain, Nevada 89820

Bureau of Land Management, 4765 West Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89102

Churchill Public Library, 553 South Main Street, Fallon, Nevada 89406

Elko County Library, 720 Court, Elko, Nevada 89801

Eureka County Library, Eureka, Nevada 89316

Mineral County Library, 1st and D Streets, Hawthorne, Nevada 89415

Bureau of Land Management, 1535 Hot Springs Road, Suite 300, Carson City, Nevada, 89701

Bureau of Land Management, 3900 E. Idaho Street, P.O. Box 831, Elko, Nevada 89801

Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301

Bureau of Land Management, 705 East 4th Street, Winnemucca, Nevada 89445

Clark County Library, 1401 East Flamingo Road Las Vegas, Nevada 89121

Esmeralda County Library, Goldfield, Nevada 89013

Lander County Library, Battle Mountain, Nevada 89820

Nevada State Library, Library Building, Carson City Nevada 89710

University of Nevada, Las Vegas, James R. Dickinson Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154

University of Nevada, Reno, Getchall Library, Reno, Nevada 89507

White Pine County Library, City Hall, Ely, Nevada 89301

Nye County Library, Tonopah, Nevada 89049

Washoe County Library, 1301 South Center Street, Reno, Nevada 89505

Dated: January 7, 1987.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 87-615 Filed 1-12-87; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Sixth Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service publishes the time, place, and provisional agenda for the sixth regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora and invites the public to provide information and comments on provisional agenda items. The sixth meeting has been scheduled for July 12-24, 1987, in Ottawa, Canada.

The Service also announces a public meeting to receive information and comments on the provisional agenda, including information and comments on the conservation status of species to assist in determining whether the United States will propose amendments to the appendices to the convention which consist of lists of species controlled by the Convention.

ADDRESSES: Information and comments on nonspecies matters should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 611, Arlington, Virginia 22201. Information and comments are open to the public inspection from 8:00 a.m. to 4:15 p.m., Monday through Friday, except holidays, at the Fish Wildlife Permit Office.

DATES: The Service will consider information and comments concerning nonspecies items on the provisional agenda for the Ottawa meeting received by March 31, 1987, except that suggestions for the addition of agenda items to the provisional agenda will be assured consideration only if received by January 30, 1987. A public meeting concerning the provisional agenda including species proposals will be held on January 21, 1987, (see "Announcement of Public Meeting Concerning Provisional Agenda").

FOR FURTHER INFORMATION CONTACT: Earl B. Baysinger, Chief, Federal Wildlife Permit Office, U.S. Management Authority for CITES, U.S. Fish and

Wildlife Service, 1000 N. Glebe Road, Room 621, Arlington, Virginia 22201, telephone (703) 235–1937.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, hereinafter referred to as the Convention or CITES, is a 94 Nation, international agreement designed to control international trade in certain listed animal and plant species which are or may become threatened with extinction. Currently, 94 nations, including the United States, are CITES Parties. CITES calls for biennial meetings of the Conference of the Parties to review its implementation, make provisions enabling the Secretariat of CITES to carry out its functions, consider adopting amendments to Appendices I and II to CITES (2 of 3 lists which contain the names of species and other taxonomic categories controlled by CITES; the third list, Appendix III, may be amended unilaterally), consider any reports presented by the Secretariat, any Party of a committee of the Conference of the Parties, and make recommendations for the improved effectiveness of CITES.

This is the first of a series of notices which, together with public meetings, provide the public an opportunity to participate in the development of the United States negotiating positions for the sixth regular meeting of the Conference of the Parties to CITES. The Service's regulations governing this process are found in Title 50 of the Code of Federal Regulations §§ 23.31 through 23.39.

Notice of the Sixth Regular Meeting of the Conference of the Parties and the Meeting's Provisional Agenda

The Service sent representatives to the Fourteenth Meeting of the Standard Committee (SC 14) in Ottawa, Canada, October 27–31, 1986. This meeting developed a provisional agenda for the sixth regular meeting of the Conference of the Parties (COP) which will be held in Ottawa, Canada, from July 12 through July 24, 1987. That provisional agenda is printed here in full:

Convention on International Trade in Endangered Species of Wild Fauna and Flora

Sixth Meeting of the Conference of the Parties

Ottawa (Canada), 12 to 24 July 1987

Agenda

(Provisional)

I. Opening Ceremony by the Authorities of Canada
II. Welcoming addresses
III. Adoption of the Rules of Procedure
IV. Election of Chairman and Vice-Chairman of the meeting and of Chairmen of Committees I and II
V. Adoption of the Agenda and Working Programme
VI. Establishment of the Credentials Committee and Committees I and II
VII. Report of the Credentials Committee
VIII. Admission of observers
IX. Matters related to the Standing Committee
  1. Report by the Chairman
  2. Election of new members of the Standing Committee
X. Report of the Secretariat
XI. Permanent CITES Committees
XII. Financing and budgeting of the Secretariat and of meetings of the Conference of the Parties
  1. Financial report for 1985–1986
  2. Budget for 1988–1989 and Medium Term Plan for 1990–1991
  3. External funding
XIII. Committee reports and recommendations
  1. Technical Committee
  2. Identification Manual Committee
  3. Nomenclature Committee
XIV. Interpretation and implementation of the Convention
  1. Report on national reports under Article VIII, paragraph 7, of the Convention
  2. Review of alleged infractions
  3. Implementation of the Convention in certain countries
  4. Trade in ivory from African elephants
  5. Trade in rhinoceros products
  6. Trade in leopard skins
  7. Trade in plant specimens
  8. Controls on trade in ranched, captive bred, lookalike and quota species
  9. Significant trade in Appendix II species
  10. Retrospective issuance of CITES documentation
  11. Travelling fur trade shows
  12. Interpretation of Article XIV, paragraph 1, of the Convention
  13. Transport of live specimens
  14. Designation of Scientific Authorities
XV. Consideration of proposals for amendment of Appendices I and II
  1. Proposal submitted pursuant to Resolution on Ranching
  2. Usual proposals
  3. Ten Year Review Proposals
  4. Proposals concerning export quotas
XVI. Conclusion of the meeting
  1. Determination of the time and venue of the next regular meeting of the Conference of the Parties
  2. Closing remarks

Explanation of Provisional Agenda Items

Provisional agenda items I, II, IV, V, VI, VII, VIII, XII (except paragraph 3) are largely procedural or administrative in nature and are not explained here. Item XV deals with species matters which will be dealt with in a series of separate **Federal Register** notices including amendments to the lists of controlled species proposed by other Parties. The following are brief explanations of the balance of the provisional agenda items as they are numbered:

III. *Adoption of the Rules of Procedure*—Normally the rules of procedure for Conferences of the Parties have been adopted without discussion or debate.

SC 14 adopted some changes to the provisional rules of procedure after some debate and are worthwhile discussing here:

1. Rule 5—Chairman and Vice-Chairmen

Old Rules: The host country designated the chairman of the meeting

New Provisional Rules: The host country designates a temporary chairman until the Conference elects its chairman. Candidates are to be nominated by the Bureau in consultation with the host government. Parties and participants must route their recommendations through the Bureau.

Explanation: This change is intended to assure the selection of a chairman capable of impartially expediting the business of COP6. The Bureau would be composed of the Standing Committee plus the temporary chairman until the permanent chairman is elected after which the chairman would be a member of the Bureau.

2. Rule 7—Bureau

Old Rules: The Bureau had the general duty of forwarding the business of the meeting.

New Provisional Rules: The Bureau is given specific authority to forward the business of the meeting including: altering the timetable or structure of the meeting and as a last resort limiting the time for debates.

3. Rule 23—Establishment of Committees and Working Groups

Old Rules: The Technical Committee, a committee of the whole, dealt with most agenda items. Species matters were handled by a screening committee. Both committees made recommendations to the plenary session.

New Provisional Rules: Committee I makes recommendations to the plenary session on all proposals to amend the species appendices and or "any matters of a primary biological nature". Committee II makes recommendations on all other matters.

Explanation: The new rules would result in consideration of more than a few agenda items by both committees with Committee I dealing with the biological aspects of the issues and Committee II the other aspects such as

procedural, administrative, enforcement, etc.

Decisions taken by these Committees would much carry greater weight. A committee recommendation would be open to discussion by the plenary only under certain circumstances as set forth in Rule 13.

4. Rule 13—Arrangements for Debates

Old Rules: Closure of debate in plenary session could be moved by one representative with two representatives allowed to speak against the motion.

New Provisional Rules: Recommendations from Committees I and II are not subject to debate in plenary session but must be immediately decided upon unless two Parties move to open debate. Two opponents may speak to the motion and a simple majority would decide the motion. When speaking to the motion to open debate, one may not speak on the substance of the recommendation itself.

Explanation: This proposed change is intended to avoid "double debate" i.e., once in committee and once in the plenary session. However, the effect will be to increase the importance of committee action and reduce the role of the plenary. Delegations or observers who are unable to participate in the deliberations of the concurrent sessions of *both* committees will find their ability to participate effectively much reduced.

5. Rule 15—Majority

Old Rules: Most decisions were taken by a simple majority.

New Provisional Rules: Most decisions would require a two-thirds majority.

Explanation: This change is intended to ensure acceptance of the COP's decisions by most Parties.

6. Rule 14—Methods of Voting

Old Rules: One representative could cause a secret ballot to be taken.

New Provisional Rules: In most instances, a simple majority would be needed to cause a secret ballot to be taken. The decision on whether to have a secret ballot decision may not be taken by secret ballot.

Explanation: This change is intended to expedite the business of the COP and to make delegates accountable for their votes.

7. Rule 9—Seating, Quorum

Old Rules: No limit on the right of an observer to speak with delegates.

New Provisional Rules: Observers may not enter the area of a meeting room occupied by delegates unless invited to do so by a delegation.

Explanation: This change is intended to ensure that delegations are not disturbed during crucial discussions by last minute attempts at "inappropriate pressures".

While these revised Rules of Procedure allegedly were drafted to increase the efficiency in which the COP conducts its business, it should be noted that they also will increase the number of delegates who must attend a COP if that delegation or organization is to be effectively represented. The change in significance of Committee actions will make it necessary for any delegation or observer to be represented in *both* concurrent committee meetings if they are to have an opportunity to present their views before a nearly final decision is taken. Therefore, many nations or organizations who formerly have been represented by only one or two delegates will not have to send at least two and preferably more delegates.

These revised Rules of Procedure were drafted following COP5 at which it was alleged certain observers exercised undue pressure on delegates. SC13 agreed that the Secretariat should draft Rules of Procedure that would effectively constrain the ability of observers to influence delegates. Article XI of the CITES specifies that observers ". . . shall have the right to participate but not vote . . ." Subsequent to SC13, the U.S. General Accounting Office was requested to investigate the allegations of improper behavior and has since issued their "Report to Congressional Requesters" entitled "International Organizations Private Funding of Delegate Travel GAO/RCED-87-22." The investigators were unable to find any substance to the inferences of improper behavior on the part of any of the observers.

IX. Matters related to the Standing Committee. 1. Report by the Chairman—India, Chair of the Standing Committee, will present a report covering the Thirteenth Meeting of the Standing Committee (Lausanne, Switzerland October-November 1985) (SC13) and SC14. Most of the items in the report are the subject of other COP6 agenda items and will be discussed under those items.

2. Election of New Members of the Standing Committee—Regional memberships for the Asian, African and Central and South American regions will be open for election. The United States will remain North American regional representative until COP7 in 1989.

X. Report of the Secretariat. Normally this item is not controversial. The Secretariat produces an annual report which provides useful information on such things as current membership, reservations, ratification of amendments, Secretariat missions and projects, etc., and the Parties usually accept the report at the meeting.

XI. Permanent CITES Committees. Switzerland and Canada have been working on draft proposal to make a uniform committee structure out of the system of committees that has evolved over the years. Chief among the elements of the proposal would be the creation of a Science or Species Committee which in its broader form (Science) would deal with all primarily scientific issues and in its narrower form (Species) would only deal with screening of species proposals between COPs. The membership and mandate of all current CITES committees including the Standing Committee, Technical Committee, Identification Manual Committe, Plant Working Group and Nomenclature Committee would be subject to reconsideration.

The structure and composition of the organization that results will have a very significant and long term impact on the manner in which the CITES organization functions as well as the cost thereof.

XII. Finacing and Budgeting of the Secretariat and Meetings of the Conference of the Parties. 3. External Funding—Since COP5, the Secretariat has fostered the creation of a trust fund to supply funds to be used to support participation at CITES meetings, obtain reliable information and help Parties improve their decision making processes. The Secretariat is hopeful that full details of such a trust fund will be available by COP6.

XIII. Committee Reports and Recommendations. 1. Technical Committee—Items that will be contained in the Technical Committee Report will be discussed under item XIV below.

2. Identification Manual—The Chairman of the CITES Identification Manual Committee will present a progress report on the Identification Manual. Contributions from the United States to the CITES ID Manual covering a number of taxa have either been submitted or are currently under preparation: Color charts to be used for law enforcement or public relations purposes have been prepared for Amazona Parrots and CITES Appendix I New World primates. Data sheets have been prepared for *Amazona* spp. and are currently being prepared for CITES Appendix I and II New World primates. In addition, data sheets are being prepared for Iguanidae species.

3. Nomenclature Committee—Since 1977, this committee has been

developing standardized checklists of species in order to improve the implementation of CITES. Thus far the Parties have adopted checklists for mammals and amphibians. The next lists to be produced will be for turtles and crocodiles.

XIV. Interpretation and Implementation of the Convention. 1. Report on National Reports under Article VIII, paragraph 7, of the Convention—Under the provisions of Article VIII paragraph 7, each Party must submit to the Secretariat an annual report containing a summary of its international trade in species controlled by CITES. COP5 asked the Secretariat to contact non-Party states and urge them to submit such reports.

Since 1984, the European Economic Community (EEC) has implemented CITES on a Community-wide basis so that most CITES-controlled trade is not controlled if it is between EEC member States. The EEC has also chosen not to include such intra-community trade in its annual report. COP5 adopted a resolution recommending the reporting of such trade, unless to do so would be "in direct and irreconcilable conflict with the provisions of the regional trade agreement" (Res. Conf. 5.5). This issue came up again at the second meeting of the Technical Committee (TEC 2), held in Lausanne, Switzerland, June 23–27, 1986. The United States noted that omission of such data was a serious gap, noted the positive aspects of the EEC's annual report, called on EEC countries to file annual reports until CITES Parties ratified EEC accession to CITES and noted that the United States Senate had delayed action on the EEC accession amendment due to the quality of the EEC's annual report and EEC implementation of CITES. The EEC has, thus far, refused to agree to provide intra community trade data. A committee of the European Parliament held hearings last November on, among other things, CITES implementation and will present a report on the matter to the EEC Parliament in May 1987.

The Service is conducting a review of the United States annual report of its CITES trade.

2. Review of Alleged Infractions—At TEC 2, the Secretariat informed the committee of the guidelines it will use to determine which trade and implementation problems it deems significant enough to report to the COP. There was a consensus that the guidelines were good. Presumably the Secretariat will inform COP6 of its use of these guidelines when this agenda item is considered.

3. Implementation of the Convention in Certain Countries—It is believed that the continuing problem of illegal trade in CITES-controlled specimens from Bolivia and Paraguay will be the main topics for discussion under this agenda item. SC14 recommended that the Parties ban all trade in CITES-controlled species with Bolivia.

4. Trade in ivory from African elephant—COP5 adopted a system of African elephant raw ivory trade controls based on export quotas of ivory tusks from African "producer" countries and on a trade monitoring system operated by the CITES Secretariat. It has come to light that the system proposed would "legitimize" stockpiled illegal ivory and that the marking system for raw ivory apparently is highly vulnerable to tampering.

TEC2 considered a proposed resolution concerning control of trade in worked ivory that would encourage African countries to remove stricter domestic measures on worked ivory so as to enable the international worked ivory tourist trade to operate without the need for CITES permits. TEC2 did not recommend the adoption of this proposal which was resisted by several African countries but it will probably be considered by COP6.

5. Trade in Rhinoceros Products—Recent U.S. Congressional hearings have highlighted the continuing problem of the illegal trade of rhinoceros horn which has been seriously depleting already highly endangered species of rhinoceros. All species are listed as endangered under the U.S. Endangered Species Act.

Despite a domestic ban on the import of rhino horn (used primarily for knife handles) North Yemen continues to be the world's largest consumer of rhino horn. Singapore, the largest importer of Asian rhino horn recently has become a member of CITES and has pledged to end its trade in the horn. The Peoples Republic of China, CITES Party, continues to import rhino horn and re-export it as medicinal products. SC14 took note of Kenya's efforts to create a rhinocerous sanctuary and of Zimbabwe's need for a helicopter to use in antipoaching activities.

6. Trade in Leopard Skins—At COP4, the Parties adopted a resolution allowing trade in leopard skins taken in one of seven African countries (Botswana, Kenya, Malawi, Mozambique, Tanzania, Zambia, Zimbabwe) and sold as personal items under a quota system. The Parties were to evaluate this resolution at COP5. Instead of reviewing the resolution, COP5 allowed the COP4 resolution to continue in effect and granted quota increases to Tanzania (60 to 250), Zambia (80 to 300) and Zimbabwe (80 to 350) despite indications that the quota system was not functioning properly. The COP4 resolution as affirmed at COP5 will be reviewed at COP6. The United States does not allow imports of such personal items, but does approve imports of sport hunted leopard trophies from certain Subsaharan African countries where it finds that it enhances the survival of the species.

7. Trade in Plant Specimens—A Plant Working Group (PWG) was established by COP4 to develop clear recommendations on how to improve CITES implementation for plants. COP5 adopted a resolution containing many recommendations in this regard. TEC2 reviewed the following resolutions for consideration by COP6:

1. A technical resolution to assure that *future* listings of Appendix II and III plants do not include pollen (including pollinia) and flasked seedling cultures unless specifically included in the listing proposal. This resolution is in keeping with the amendments to *current* plant listings made at COP5.

2. A resolution that would treat artificially propagated plant hybrids of Appendix I species as if in Appendix II if the Appendix I ancestral species were two or more crosses removed from the hybrid or if the hybrid's direct Appendix I species parent was artificially propagated.

3. A resolution requesting the Nomenclature Committee to prepare a standardized nomenclatural reference for Cactaceae to the extent possible to the level of species, subspecies and botanical variety, with full synonymy and the countries of distribution.

8. Controls on Trade in Ranched, Captive Bred, Lookalike and Quota Species: COP5 directed the Technical Committee to develop recommendations for COP6 on reporting and monitoring procedures for ranching and captive breeding operations and on the adequacy of trade controls on Appendix II species that look like Appendix I species. It also directed the Technical Committee to look at trade controls for so-called "quota species" (leopards and nile crocodiles).

At TEC2, the Secretariat introduced a paper and draft resolution concerning the implementation of the export quotas for Nile and saltwater crocodiles which dealt with the problem that some countries might not be able to tag and export all of the allotted quota of specimens during the quota year. The Technical Committee recommended that the exporting countries endeavor to have the quota skins actually tagged in the year of taking, the unused tags be destroyed so as to prevent their use for

skins in another year and that tag reports be sent to the Secretariat for communication to the other Parties.

A resolution drafted by the European Economic Community (EEC) would:

1. Provide for on-site inspections of proposed ranching operations

2. Call for interim reports to the Secretariat by approved ranching operations on any matter negatively affecting the functioning of the ranching operation or the population of the species involved

3. Authorize the Secretariat to visit and examine a ranching operation

4. Require import permits for Appendix II species with populations in Appendix I as well as for captive bred specimens of Appendix I species.

5. Cause the development of a list of Appendix I species known to be bred in captivity in accordance with the criteria of Resolution Conf. 2.12 and of countries breeding such species on a commercial basis. This information would be included in the CITES Identification Manual and the CITES Directory and would either be in addition to the current register of commercial Appendix I captive breeding operations or would supplant it.

France will submit a ranching proposal to transfer from Appendix I to Appendix II the populations of *Chelonia mydas* of Europa and Tromelin islands at COP6. In advance of such submission, the EEC on behalf of France submitted to TEC2 a scheme to mark the products of the ranch (shell, processed goods and unprocessed meat, skin and oil). TEC2 considered the scheme generally acceptable.

9. Significant Trade in Appendix II Species—COP4 charged the Technical Committee to identify species traded without sufficient information as to the impact of trade on their populations and to develop measures to ensure safe trade of such species. TEC2 finalized the identification process, prioritized the species to be the subject of study projects and asked the Secretariat to seek the funds necessary to carry out the priority work.

10. Retrospective Issuance of CITES Documentation—Apparently, someone has requested that COP6 consider the circumstances under which Parties may issue and accept CITES documents after trade has occurred.

11. Travelling Fur Trade Shows—A Canadian recommendation that COP6 should adopt a simplified permit system for travelling exhibits to enable them to meet quick turn-around times was accepted by TEC2. Some fur traders had experienced difficulties in re-exporting unsold items in a timely fashion for use in subsequent exhibits.

12. Interpretation of Article XIV, Paragraph 1, of the Convention—COP5 sent a proposal by ten African countries to limit the rights of Parties to adopt "stricter domestic measures" to ban trade in species that would be tradable under CITES, to a working group of the Technical Committee. The Working Group chairman presented essentially the same proposal to TEC2. TEC2 adopted a compromise resolution which provides that before adopting such measures, the Party considering them consult with the range states concerned. Range states could also request consultation on stricter domestic measures already on the books.

13. Transport of Live Species—TEC2 recommended that several proposals made in a recent Environmental Investigation Agency (a London based organization) be adopted by COP6:

1. As a condition of issuance of export permits, permittees should be required to prepare and ship live specimens in accordance with the International Air Transport Association (IATA) Live Animals Regulations.

2. A crating, health and welfare checklist (to be developed) should accompany permits and be used to check a shipment of live animals immediately prior to shipment and upon arrival.

3. Parties should be encouraged to provide animal holding facilities at designated ports of exit and entry.

In addition, the Technical Committee will forward to COP6 the following recommendations and ask the IATA Live Animals Board to consider including them in its Live Animals Regulations:

1. New acclimatization periods before shipment for certain groups of species, the Working Group to develop specific time periods in conjunction with the Live Animals Board.

2. Air carriers should not accept for shipment wild animals that are evidently pregnant, or females with young incapable of feeding themselves or such young traveling alone.

3. A list of airports with animal facilities and a statement that airline carriers route live animal shipments via such airports whenever possible.

4. That containers for live animals must provide facilities for feeding and watering the animals.

14. Designation of Scientific Authorities—At SC14, the United States noted that 28 of the Parties do not have Scientific Authorities listed in the Secretariat's Directory. This may be because Parties are not required by CITES to notify the Secretariat of Scientific Authorities they designate or it may be due to the failure of some Parties to designate Scientific Authorities as required by Article IX of CITES. The United States stated that it would survey the Parties to determine the establishment and identity of their Scientific Authorities and report to the Secretariat.

Request for Information and Comments

The Service invites information and comments on the provisional agenda items and suggestions for additional agenda items. Suggestions for additional items should contain sufficient detail to enable the Service to evaluate appropriateness for inclusion in the agenda of the sixth regular meeting of the Conference of the Parties. They should be submitted no later than January 30, 1987. Information and comments on provisional agenda items should be submitted no later than March 31, 1987.

Announcement of Public Meeting Concerning Provisional Agenda Including Species Proposals

The Service announces that it will conduct a public meeting on January 21, 1987, from 1:00 p.m. to 4:00 p.m. in room 7000–A of the U.S Department of the Interior (Main Building), at 18th and C Streets, NW., Washington, DC, for the following purposes:

(1) To receive information and comments on the provisional agenda items for the sixth regular meeting of the Conference of the Parties.

(2) To receive suggestions for additional agenda items for the sixth regular meeting of the Conference of the Parties.

(3) To receive information on animal and plant species for the purpose of determining if the United States should propose any amendments to the lists of species in CITES Appendices I and II. The Service has recently published a notice in the **Federal Register** (52 FR 309) discussing species identified as candidates for U.S. proposals to amend Appendices I and II.

Written statements on nonspecies matters may be submitted to the Service before or at the meeting. Appointments to speak may be made with Arthur Lazarowitz, Federal Wildlife Permit Office, U.S. Management Authority for CITES, 1000 North Glebe Road, Room 611, Arlington, Virginia, 22201, telephone (703) 235–1937.

Observers

Article IX, Paragraph 7 of the Convention provides:

Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in

the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by the observers, shall be admitted unless at least one-third of the Parties object:

(a) International agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) National non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located. Once admitted these observers shall have the right to participate, but not to vote.

Persons wishing to be observers representing United States national non-governmental organizations must receive prior approval of the Fish and Wildlife Service. Requests for such approval should include evidence of technical qualification in protection, conservation or management of wild fauna and flora and should be sent to the Federal Wildlife Permit Office (see "Addresses" above). Copies of letters of approval should be used by these agencies to inform the Secretariat of their wish to send observers to the meeting. In the past, the Secretariat has required such information to be received at least 1 month prior to the meeting. The Secretariat may be contacted at the following address: CITES Secretariat, 6, rue du Maupas, Case postale 78, CH-1000 *LAUSANNE* 9 Chauderon, Switzerland.

Other Meetings and Notices

The Service plans to publish a notice of proposed negotiating positions on or about April 7, 1987, to hold a public meeting on such positions on or about April 23, 1987, and to publish a notice of negotiating positions on or about June 22, 1987.

This notice was prepared by Arthur W. Lazarowitz, Federal Wildlife Permit Office.

Dated: January 9, 1987.

Ronald E. Lambertson,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 87-820 Filed 1-12-87; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

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 January 3, 1987. 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 January 28, 1987.

Carol D. Shull,

Chief of Registration, National Register.

California

Butte County

Chico, *Southern Pacific Depot*, 430 Orange St.

Contra Costa County

Antioch, *Shannon—Williamson Ranch*, RR 1, Lone Tree Way

San Francisco County

San Francisco, *Pioneer Trunk Factory—C.A. Malm & Co.*, 2185-2199 Folsom St. and 3180 18th St.

Santa Barbara County

Montecito, *Steedman Estate*, 1387 E. Valley Rd.

Santa Cruz County

Santa Cruz, *Pacific Avenue Historic District*, Roughly bounded by Pacific Ave., Water, Front, and Cathcart Sts.

Sonoma County

Sea Ranch, *Knipp and Stengel Ranch Barn*, CA 1

Georgia

Chatham County

CSS GEORGIA (ironclad)

Illinois

Adams County

Golden, *Exchange Bank*, Quincy St.

Kendall County

Plano, *Sears, Albert H., House*, 603 E. North St.

Ogle County

Ashton vicinity, *Moats, William, Farm*, Wood Rd.

White County

Carmi, *Williams, James Robert, House*, 310 E. Main St.

Kentucky

Campbell County

Newport, *Posey Flats*, 101-103 E. Third St.

Pendleton County

Peach Grove vicinity, *Immaculate Conception Catholic Church and Cemetery*, Stepstone Rd.

Louisiana

Iberia Parish

Jeanerette vicinity, *Bayside*, LA 87

Missouri

St. Louis (Independent City)

Washington Avenue Historic District, Roughly bounded by Delmar, Tucker, St. Charles, N. Fifteenth, Olive, N. Eighteenth, Washington Ave., and Lucas St.

New York

Ontario County

Geneva vicinity, *Belhurst Castle*, Lochland Rd.

North Carolina

Henderson County

Fletcher vicinity, *Rugby Grange*, I-26 at Fanning Bridge

Macon County

Franklin, *Franklin Presbyterian Church*, 45 Church St.

North Dakota

Cass County

Fargo, *Oak Grove High School—Jackson Hall (North Side Fargo MRA)*, 616 Ash St.

Fargo, *Fargo City Detention Hospital (North Side Fargo MRA)*, 57 Eleventh Ave., N.

Fargo, *Holes, James, House (North Side Fargo MRA)*, 1230 Fifth St., N.

Fargo, *Kennedy House (North Side Fargo MRA)*, 1024 Broadway

Fargo, *North Side Fargo Builder's Residential Historic District (North Side Fargo MRA)*, Roughly bounded by Benjamin Franklin School area and Golf Course, First St., Twelfth Ave. N., and Fourth St.

Fargo, *North Side Fargo High Style Residential-Historic District (North Side Fargo MRA)*, Roughly bounded by Twelfth Ave. N., Fourth St., Eleventh Ave. N., and Seventh St.

Fargo, *Sacred Heart Academy (North Side Fargo MRA)*, 1310 Broadway

Fargo, *Smith, Chesbro, House (North Side Fargo MRA)*, 1337 Broadway

Utah

Washington County

Springdale, *Angels Landing Trail—West Rim Trail (Zion National Park MRA)*, S of Scout Lookout, across the Virgin River and Refrigerator Canyon

Springdale, *Comfort Station (Zion National Park MRA)*, South Campground at N end of campsite loop

Springdale, *Comfort Station (Zion National Park MRA)*, Grotto Picnic Area near Grotto Residence, E of Scenic Dr.

Springdale, *Comfort Station (Zion National Park MRA)*, Grotto Picnic Area E of Scenic Dr.

Springdale, *Crawford Irrigation Canal (Zion National Park MRA)*, Crawford Canal

Springdale, *East Entrance Checking Station (Zion National Park MRA)*, East Entrance is sited on Island in middle of UT 9

Springdale, *East Entrance Residence (Zion National Park MRA)*, East Entrance 150 ft. N of UT 9

Springdale, *East Entrance Sign (Zion National Park MRA)*, East Entrance Checking Station on N and S sides of UT 9

Springdale, *East Rim Trail (Zion National Park MRA)*, Between Weeping Rock Parking Area and Observation Point
Springdale, *Emerald Pools Trail (Zion National Park MRA)*, Foot Bridge across hwy. from Utah Parks Lodge proceeding W to the Lower Emerald Pool
Springdale, *Gateway to the Narrows Trail (Zion National Park MRA)*, Temple of Sinawava at end of Zion Canyon Scenic Dr., and trail of Virgin River
Springdale, *Grotto Residence (Zion National Park MRA)*, Grotto Picnic Area W to Canyon Dr.
Springdale, *Hidden Canyon Trail (Zion National Park MRA)*, Hidden Canyon jct. on East Rim Trail and S end of Weeping Rock Parking Area
Springdale, *Oak Creek Historic District (Zion National Park MRA)*, Off US 9 along bank of Oak Creek
Springdale, *Canyon Overlook Trail (Zion National Park MRA)*, Canyon Overlook Trail across hwy. from parking area at E end of Zion-Mt. Carmel Tunnel
Springdale, *Pine Creek Irrigation Canal (Zion National Park MRA)*, Pine Creek Canal
Springdale, *Pine Creek Residential Historic District (Zion National Park MRA)*, NW side of US 9, 500 ft. S of Virgin River Bridge
Springdale, *South Campground Amphitheater (Zion National Park MRA)*, South Campground
Springdale, *South Entrance Sign (Zion National Park MRA)*, South Entrance
Springdale, *Trailside Exhibit Building (Zion National Park MRA)*, Temple of Sinawava at S end of Gateway to the Narrows Trail
Springdale, *Zion Canyon Scenic Drive (Zion National Park MRA)*, W side Virgin River from S entrance to Virgin River Bridge & E shore to Temple of Sinawava parking area
Springdale, *Zion Nature Center—Zion Inn (Zion National Park MRA)*, South Campground Historic District, N of the South Campground facilities.
Springdale, *Zion Stone Quarry (Zion National Park MRA)*, 1 mile W of Springdale and 3 miles from Park Headquarters
Springdale, *Zion-Mt. Carmel Highway (Zion National Park MRA)*, E of Virgin River Bridge between US 9 and US 89

Virginia

Albemarle County

Ivy vicinity, *Woodstock Hall Tavern*, VA 637

Rockbridge County

Lexington vicinity, *Maple Hall*, Jct. of US 11 and I-81 & I-64

Warren County

Front Royal, *Sonner Hall*, Third St.

[FR Doc. 87-655 Filed 1-12-87; 8:45 am]

BILLING CODE 4310-70-M

Recreation Entrance Fees

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of intent to raise recreation entrance fees at the 62 units of the National Park System currently charging fees and to establish recreation entrance fees at an additional 72 units. Current per person fee rates range from $.50 or $1 and will rise to a new rate of $1 or $2 per person. Current vehicle rates that range from $1 to $3 will increase to a new rate of $3 or $5 per vehicle. The fee parks are listed below.

These 134 entrance fee areas will also have available, annual Park-Specific Passes for $10 or $15. The annual pass will admit the permittee (and any accompanying persons in a single, private, noncommercial vehicle, or alternatively, the permittee, accompanying spouse, children, and parents where entry is by any means other than private, noncommercial vehicle) to a specific fee area of the National Park System. It does not cover recreation use fees such as camping or fees for special recreation permits.

Golden Eagle passports are increased from $10 to $25. No changes are proposed for the Golden Age passports (for persons 62 year of age and older) or the Golden Access passports (for persons permanently blind or disabled). Both of these passes are free and allow for free entrance and a 50 percent discount for user fees (camping, cave tours, etc.) charged by the National Park Service.

There are no entrance fees for children 12 years of age and under, or educational groups.

DATES: This action is effective as of February 1, 1987, and expires September 30, 1987, unless continued by legislation.

ADDRESSES: Recreation entrance fee lists may be obtained from: National Park Service, Branch of Ranger Activities (650), P.O. Box 37127; Washington, DC 20013-7127.

FOR FURTHER INFORMATION CONTACT: Richard Rambur, Recreation Fee Coordinator, Ranger Activities at the address given above; telephone 202/343-5607, [FTS] 343-5607.

SUPPLEMENTARY INFORMATION: Recreation entrance fees were last raised in 1972. A legislative freeze (Pub. L. 96-87) in 1979 prohibited increases or adding additional entrance fee parks. In the 1987 Continuing Resolution (Pub. L. 99-500), Congress provided $57.79 million for "Operation of the National Park System" and directed that all recreation fee revenues be deposited in the General Fund of this Treasury to offset this appropriation. Anticipated revenues will respresent less than 10 percent of the National Park System operating budget.

* * * * *

Dated: January 8, 1987.

William Penn Mott, Jr.,

Director, National Park Service.

December 15, 1986.

UNITED DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE

National Park Service Entrance Fees Proposed Single Visit Rates by Area

No. and Park	Current rates per		Proposed rated per	
	Vehicle	Person	Vehicle	Person
1. Acadia NP			$5.00	$2.00
2. Adams NHS		$0.50		2.00
3. Andersonville NHS				1.00
4. Andrew Johnson NHS				1.00
5. Antietam NB				1.00
6. Appomattox Courthouse NHP	$1.00	.50		1.00
7. Arches NP	1.00	.50	5.00	2.00
8. Assateague Island NS			3.00	1.00
9. Aztec Ruins NM	1.00	.50	3.00	1.00
10. Badlands NP	1.00	.50	3.00	1.00
11. Bandelier NM	1.00	.50	5.00	2.00
12. Bent's Old Fort NHS			3.00	1.00
13. Big Bend NP			5.00	2.00
14. Big Hole NB			3.00	1.00
15. Black Canyon of the Gunnison NM	1.00	.50	3.00	1.00
16. Bryce Canyon NP	2.00	.50	5.00	2.00
17. Cabrillo NM			3.00	1.00
18. Canaveral NS			3.00	1.00
19. Canyonlands NP	1.00		5.00	2.00
20. Cape Cod NS	1.00	.50	3.00	1.00
21. Capitol Reef NP			3.00	1.00
22. Capulin Mountain NM	1.00	.50	3.00	1.00
23. Carl Sandburg NHS				1.00
24. Casa Grande NM	1.00	.50	3.00	1.00
25. Castillo de San Marcos NM		.50		1.00
26. Cedar Breaks NM			3.00	1.00
27. Chaco Culture NHP			3.00	1.00
28. Chickamauga and Chattanooga NMP		.50		1.00
29. Chiricahua NM	1.00	.50	3.00	1.00
30. Christiansted NHS				1.00
31. Colonial NHP	2.00	1.00	5.00	2.00
32. Colorado NM	1.00	.50	3.00	1.00
33. Cowpens NB			3.00	1.00
34. Crater Lake NP	2.00	.50	5.00	2.00
35. Craters of the Moon NM	1.00	.50	3.00	1.00
36. Cumberland Island NS				2.00
37. Custer Battlefield NM				1.00
38. Devils Tower NM	1.00	.50	3.00	1.00
39. Dinosaur NM			5.00	2.00
40. Edison NHS		.50		2.00
41. Effigy Mounds NM				1.00
42. Eisenhower NHS				1.00
43. El Morro NM	1.00	.50		1.00
44. Everglades NP	2.00	.50	5.00	2.00
45. Florissant Fossil Beds NM			3.00	1.00
46. Ford's Theater NHS				1.00
47. Fort Clatsop NMEM				1.00
48. Fort Davis NHS	1.00	.50		1.00
49. Fort Donelson NMP			3.00	1.00
50. Fort Frederica NM				1.00
51. Fort Laramie NHS				1.00
52. Fort NcHenry NM & Historic Shrine				1.00
53. Fort Necessity NB				1.00
54. Fort Pulaski NM	1.00	.50		1.00
55. Fort Scott NHS				1.00
56. Fort Smith NHS				1.00
57. Fort Stanwix NM				1.00
58. Fort Vancouver NHS				1.00
59. Fort Washington			3.00	1.00
60. George Washington Carver NM				1.00
61. Glacier NP	2.00	.50	5.00	2.00
62. Golden Spike NHS			3.00	1.00
63. Grand Canyon NP	2.00	.50	5.00	2.00
64. Grand Portage NM				1.00
65. Grand Teton NP	2.00	.50	5.00	2.00
66. Grant-Kohrs Ranch NHS				1.00
67. Great Falls Park (GWMP)			3.00	1.00

UNITED DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE—Continued

National Park Service Entrance Fees Proposed Single Visit Rates by Area

No. and Park	Current rates per		Proposed rated per	
	Vehicle	Person	Vehicle	Person
68. Great Sand Dunes NM	1.00	.50	3.00	1.00
69. Gulf Islands NS	1.00	.50	3.00	1.00
70. Haleakala NP			3.00	1.00
71. Harpers Ferry NHP				2.00
72. Harry S Truman NHS				1.00
73. Hawaii Volcanoes HP			5.00	2.00
74. Herbert Hoover NHS				1.00
75. Home of Franklin D. Roosevelt NHS		1.50		2.00
76. Hopewell Furnace NHS				1.00
77. Independence NHP				2.00
78. Isle Royale NP				2.00
79. John F. Kennedy NHS		.50		1.00
80. John Muir House NHS				1.00
81. Joshua Tree NM			5.00	2.00
82. Lassen Volcanic NP	1.00	.50	5.00	2.00
83 Lava Beds NM			3.00	1.00
84. Lincoln Boyhood NMEM				1.00
85. Longfellow NHS		.50		2.00
86. Manassas NBP				1.00
87. Mesa Verde NP	2.00	.50	5.00	2.00
88. Minute Man NHP		.75		1.00
89. Montezuma Castle NM	1.00	.50	3.00	1.00
90. Morristown NHP		.50		1.00
91. Mount Rainier NP	2.00	.50	5.00	2.00
92. Natural Bridges NM				1.00
93. Ocmulgee NM	1.00	.50	3.00	1.00
94. Olympic NP			3.00	1.00
95. Organ Pipe Cactus NM			3.00	1.00
96. Padre Island NS			3.00	1.00
97. Pea Ridge NMP				1.00
98. Pecos NM	D		1.00	
99. Ferry's Victory & Int'l Peace MEM				1.00
100. Petersburg NB				1.00
101. Petrified Forest NP	1.00	.50	5.00	2.00
102. Pinnacles NM	1.00	.50	3.00	2.00
103. Pipe Spring NM		.50		1.00
104. Pipestone NM				1.00
105. Pu'uhonua o Honaunau NHP				1.00
106. Rocky Mountain NP	2.00	.50	5.00	2.00
107. Sagamore Hill NHS		.50		1.00
108. Saguaro NM	1.00	.50	3.00	1.000
109. Saint-Gaudens NHS		.50		1.00
110. Salinas NM.				1.00
111. San Juan NHS			3.00	1.00
112. Saratoga NHP				1.00
113. Scotts Bluff NM	1.00	.50	3.00	1.00
114. Sequoia/Kings Canyon NP	2.00	.50	5.00	2.00
115. Shenandoah NP	2.00	.50	5.00	2.00
116. Shiloh NMP				1.00
117. Statue of Liberty NM				1.00
118. Stones River NB				1.00
119. Theodore Roosevelt Birthplace NHS		.50		1.00
120 Theodore Roosevelt NP	1.00	.50	3.00	1.00
121. Tonto NM	1.00	.50	3.00	1.00
122. Tumacacori NM	1.00	.50	3.00	1.00
123. Tuzigoot NM	1.00	.50	3.00	1.00
124. Valley Forge NHP			3.00	1.00
125. Vanderbilt Mansion NHS		1.50		2.00
126. Vicksbury NMP			3.00	2.00
127. Walnut Canyon NM	1.00	.50	3.00	1.00
128. White Sands NM	1.00	.50	3.00	1.00
129. Whitman Mission NHS				1.00
130. Wilson's Creek NB			3.00	1.00
131. Wright Brothers NMEM			3.00	1.00
132. Yellowstone NP	2.00	.50	5.00	2.00
133. Yosemite NP	3.00	.50	5.00	2.00
134. Zion NP	2.00	.50	5.00	2.00

[FR Doc. 87-651 Filed 1-12-87; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30964]

Missouri Pacific Railroad Co.—Trackage Rights—Missouri-Kansas-Texas Railroad Co.; Exemption

Missouri-Kansas-Texas Railroad Company (MKT) has agreed to grant overhead trackage rights to Missouri Pacific Railroad Company (MP). MP will have the right to use rail lines (1) in MKT's Cherokee Subdivision, from milepost 504.11 near Muskogee to milepost 498.6 near Chase, OK, and (2) in MKT's Tulsa Subdivision, from milepost Z-324.8 near Chase to milepost Z-278.26 near Tusla, OK, a distance of approximately 52 miles. The trackage rights are effective on or after December 31, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: December 31, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-669 Filed 1-12-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

January 7, 1987.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form/supporting documents is available); (2) the office of the agency issuing the form; (3) the title of the form; (4) the agency form number, if applicable; (5) how often the form must be filled out; (6) who will be required or asked to report; an estimate of the number of responses; (7) an estimate of the total number of respondents; (8) an estimate of the total number of hours needed to fill out the form; (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies; and, (10) the name and the telephone number of the person or office responsible for the OMB review. Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the item(s) contained in this list should be directed to the reviewer listed at the end of each entry *AND* to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer *AND* the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer: Larry E. Miesse 202/633-4312.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Larry E. Miesse, 202/633-4312
(2) Office of Diversion Control, Drug Enforcement Administration, Department of Justice
(3) Application for Permit to Export Controlled Substances
(4) DEA 161
(5) On occasion
(6) Businesses or other for-profit. Information is used to issue export permits and exercise control over exportation of controlled substances, as well as to compile data for submission to the United Nations for treaty requirements
(7) 67 respondents
(8) 215 burden hours
(9) Not applicable under 3504(h)
(10) Jeff Hill—395-7340

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application by Lawful Resident for New Alien Registration Receipt Card
(4) I-90
(5) On occasion
(6) Individuals or households. Used to determine eligibility for an alien registration card
(7) 200,000 respondents
(8) 100,000 burden hours
(9) Not applicable under 3504(h)
(10) Jeff Hill—395-7340

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Request for Verfication of Naturalization
(4) N-25
(5) On occasion
(6) Individuals or households. Used to obtain information from clerk or court records needed by person applying for benefits under various provision of the I&N Act
(7) 1,000 respondents
(8) 250 burden hours
(9) Not applicable under 3504(h)
(10) Jeff Hill—395-7340

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Request for Cancellation of Public Charge Bond
(4) I-356
(5) One time only
(6) Individuals or households. Used to determine if bond posted for an alien should be cancelled
(7) 2,000 respondents
(8) 500 burden hours
(9) Not applicable under 3504(h)
(10) Jeff Hill—395-7340

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Advance Permission to Enter as a Nonimmigrant Receipt Card
(4) I-192
(5) On occasion
(6) Individuals or households. Used to determine eligibility for a waiver of inadmissibility for entry into U.S. as nonimmigrant.
(7) 5,000 respondents
(8) 1,250 burden hours
(9) Not applicable under 3504(h)
(10) Jeff Hill—395-7340

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Passenger List—Crew List
(4) I-418
(5) On occasion
(6) Individuals or households, businesses or other for-profit. Used by masters, owners or agents of vessels in complying with Sections 231 and 251 of the I&N Act.
(7) 95,000 respondents
(8) 95,000 burden hours
(9) Not applicable under 3504(h)

(10) Jeff Hill—395-7340

Larry E. Miesse,

Department Clearance Office, Department of Justice.

[FR Doc. 87-656 Filed 1-12-87; 8:45 am]

BILLING CODE 4410-10-M

Lodging of Consent Decree in Clean Air Act Enforcement Action; Florida Power and Light Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Florida Power & Light Co.* was lodged with the United States District Court for the Southern District of Florida on December 17, 1986. The proposed consent decree requires the Florida Power & Light Co. to comply with applicable Clean Air Act requirements set forth at 40 CFR Part 60, Subpart D and pay a civil penalty of $54,000.

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. *Florida Power & Light Co.*, 90-5-2-1-972.

The consent decree can be examined at the office of the United States Attorney, 155 S. Miami Ave., Suite 500, Miami, Florida 33130, the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia, and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, (Room 1515), Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the consent decree can be obtained in person or by mail from the Environmental Enforcement Section at the above address.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-704 Filed 1-12-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act; Gordon Paving Company, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on November 18, 1986, a proposed Consent Decree in *United States* v. *Gordon Paving Company, Inc.* was lodged with the United States District Court for the District of Idaho. The Complaint sought penalties and injunctive relief against the company under sections 111, 113, and 114 of the Clean Air Act, 42 U.S.C. 7411, 7413, and 7414 for the company's violations of the New Source Performance Standards relating to asphalt concrete plants and an EPA administrative compliance order. In its Complaint, the United States alleges that the company exceeded applicable opacity limitations during 1984 and 1985, and the company failed to comply with performance testing and notification requirements under the compliance order.

The proposed Consent Decree permanently enjoins Gordon Paving Company from violating the New Source Performance Standards for Asphalt Concrete Plants, pursuant to 40 CFR Part 60. The proposed Decree also provides that Gordon Paving Company shall pay to the United States, a penalty of $7,500.00. Violation of any of the Decree requirements by the company would subject it to stipulated penalties of $1,000.00 per day.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Gordon Paving Company, Inc.*, D.J. Ref. 90-5-2-1-990.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of Idaho, Federal Building, 550 West Fort Street, Boise, Idaho 83724 and at the Office of Regional Counsel, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1732(R), Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

In requesting a copy, please enclose a check in the amount of $.60 (10 cents per page reproduction cost) payable to the "Treasurer of the United States."

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-705 Filed 1-12-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act; Moore American Graphics, Inc.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on January 5, 1987, a proposed consent decree in *United States* v. *Moore American Graphics, Inc.*, Civil Action No. 84-C-6547, was lodged with the United States District Court for the Northern District of Illinois. The proposed consent decree resolves a judicial enforcement action brought by the United States against Moore American for violations of the Clean Air Act at its Bridgeview, Illinois paper coating facility.

The proposed consent decree requires Moore American to install a variable-line solvent recovery system to control VOC emissions from its paper coating and laminating lines. The Decree requires Moore American, on or before December 31, 1986, to submit a report to EPA demonstrating compliance with the VOC emission limitations in the Illinois State Implementation Plan. In addition, the consent decree requires Moore American to pay a civil penalty of $60,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, U.S. Department of Justice, Washington, DC, and should refer to *United States* v. *Moore American Graphics*, D.J. Ref. 90-5-2-1-694.

The proposed consent decree may be examined at the office of the United States Attorney, Everett Dirksen Bldg., Room 1500S, 219 South Dearborn Street, Chicago, Illinois 60604 and at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.50 (10 cents per page

reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-706 Filed 1-12-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-86-198-C]

Acme Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Acme Coal Company, P.O. Box 71, Tower City, Pennsylvania 17980 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 5 Lykens Vein Slope (I.D. No. 36-01778) located in Dauphin County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

December 30, 1986.

[FR Doc. 87-712 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-194-C]

Ash Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Ash Coal Company, R.D. 2, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its 1½ Vein Slope (I.D. No. 36-07414) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that are quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: January 6, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-713 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-186-C]

Eastern Associated Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, One PPG Place, Pittsburgh, Pennsylvania 15222 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Harris No. 2 Mine (I.D. No. 46-01270) located in Boone County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that considerable weight was showing in the crosscuts left off number 4 Entry of the 3 Right section starting approximately 1,000 feet outby where the longwall started. The first indication was that stoppings were crushing and headers were breaking. The longwall has advanced outby to within 700 feet of the mouth of the 3 Right section. The adverse roof conditions were noted from its starting point outby for approximately 1,000 feet, and the area was unsafe for travel. At the time of the discovery of the hazardous conditions, the number 4 Entry of the 3 Right section was being used as a bleeder return. Presently, approximately 1,200 feet of adverse roof conditions are noticeable, starting 100 feet outby spad No. 4839 and extending outby to spad No. 4772, making this entire area unsafe for travel.

3. As an alternate method, petitioner proposes to check the entry inby the

adverse roof and outby on a weekly basis in lieu of travelling this area and that:

(a) The No. 4 tailgate entry will not be an escapeway. Both primary and secondary escapeways will be located on the 4 Right headgate side;

(b) An adequate amount of self-contained self-rescuers will be stationed near the tail shields in a designated storage area;

(c) A movement of air will be maintained in the tailgate entry.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: January 2, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-714 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-199-C]

Eastern Associated Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, Rt. 1, Box 144, Fairview, West Virginia 26570 has filed a petition to modify the application of 30 CFR 75.1701 (abandoned areas, adjacent mines; drilling of boreholes) to its Federal No. 2 Mine (I.D. No. 46-01456) located in Monongalia County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that whenever any working place approaches within 50 feet of abandoned areas in the mine as shown by surveys, or within 200 feet of any other a bandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within 200 feet of any workings of an adjacent mine, borehole(s) shall be drilled to a distance of at least 20 feet in advance of the working face of such working place and continually maintained to a distance of at least 10 feet in advance of the advancing working face.

2. The 13-Right, 2-South section of the Federal No. 2 is presently driving adjacent to the Loveridge Mine. The distance between the No. 1 entry of the 13-Right in the Federal No. 2 Mine and the northernmost entry of the Loveridge Mine is 120 feet.

3. Petitioner is presently drilling two rib holes towards the Loveridge Mine, in addition to the center hole, which allows a 16-foot cut. However, three major pieces of equipment are moved in and out of the working place before a cut of coal is mined. To complete development of a 100 foot block using this procedure would require a minimum of twenty-one maching moves, which exposes the operating crew to a variety of caught-by and struck-by hazards.

4. As an alternate method, petitioner proposes to drill one long rib hole, which will allow the completion of the entry development with no intermediate equipment moves as the entry will be roof bolted off the mining machine. An additional hole will be drilled in the rib to maintain the hole minimum of 14.2 feet inside the rib at all times. The entire face drilling operation will be completed when mining takes place in the adjacent entries. Upon completion of mining in the No. 1 entry the entire drilling procedure will be repeated.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: January 5, 1987.

Particia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-715 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-215-C]

Jeff Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Jeff Coal Company, P.O. Box 24, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Tracy Slope (I.D. No. 36-07328) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: December 30, 1986.

Particia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-716 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-218-C]

MEPCO, Inc.; Petition for Modification of Application of Mandatory Safety Standard

MEPCO, Inc., P.O. Box 1080, Morgantown, West Virginia 26507-1080 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Sierra Mine (I.D. No. 46-05738) located in Monongalia County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner request a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: January 6, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-717 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-182-C]

Mid-Continent Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Mid-Continent Resources, Inc., P.O. Box 158, Carbondale, Colorado 81623 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops and permanent pumps) to its Dutch Creek No. 1 Mine (Coal Basin Adit, Rock Tunnels Project) (I.D. No. 05-00301) located in Pitkin County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that sometimes the configuration of the intake entries does not permit a dry-type transformer station, not more than 750 kva, to be ventilated by intake air that is coursed directly into a return aircourse.

3. As an alternate method, petitioner proposes that:

(a) The installation will be enclosed in a fireproof structure equipped with fireproof doors and a fire suppression system. The structure will be built to allow thirty inches of clearance around the enclosed transformer and will not decrease accessibility for servicing. The installation will be equipped with metal self-closing doors;

(b) An automatic dry chemical fire suppression device activated by heat sensors will be installed in the installation;

(c) The fire detection device, when activated, will produce a readily noticeable alarm at an attended location at the mine where two-way communication exists;

(d) Two ABC-type fire extinguishers will be provided not less than 5 feet nor more than 50 feet away on the fresh-air side of a structure;

(e) The transformer will be deenergized by creating a discontinuity in the pilot-check wire in or a part of the incoming power-cable, which will trigger automatically when the fire suppression device is activated; and

(f) Air from such an installation will be coursed and maintained separate from the intake air escapeway.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: January 7, 1987.

Patricia W. Silvey

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-718 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-197-C]

Mountain Top Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Mountain Top Coal Company, P.O. Box 71, Tower City, Pennsylvania 17980 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Buck Mountain Slope (I.D. No. 36-07359) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no

emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: January 6, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-719 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-224-C]

Pammlid Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Pammlid Coal Company, P.O. Box 303, Birch River, West Virginia 26610 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Mine No. 5-B (I.D. No. 46-06202) located in Braxton County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: January 6, 1987.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 87-720 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-195-C]

Preece Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Preece Coal Company Inc., P.O. Box 449, Turkey Creek, Kentucky 41570 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 4 (I.D. No. 15-13224) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is located in the Thacker seam and ordinarily ranges from 40 to 52 inches in height, with ascending and descending elevations.

3. Petitioner states that the use of a canopy on the mine's equipment would result in a diminution of safety for the miners affected because the canopy would restrict the equipment operator's visibility.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: December 23, 1986.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-721 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-193-C]

S. and T. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

S. and T. Coal Company, R.D. #1, Box 56A, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Skidmore Slope (I.D. No. 36-01984) located in Dauphin County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or

steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: January 6, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-722 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-225-C]

Whitaker Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Whitaker Coal Corporation, P.O. Box 5001, Hazard, Kentucky 41701 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 45 Mine (I.D. No. 15-12680) located in Perry County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return air courses be examined in their entirety on a weekly basis.

2. The mine is located on Leatherwood Creek in the No. 4 coal seam. Hazardous roof conditions are located inby the drift opening of the No. 4 portal and extend throughout the No. 4, 5, and 6 Northwest main entries for a distance of approximately 3,000 feet.

3. As an alternate method, petitioner proposes to establish a ventilation check point near survey station No. 219 in the No. 4 entry which is approximately 3,000 feet inby the drift opening and a ventilation check point at the portal of the No. 4 entry.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 12, 1987. Copies of the petition are available for inspection at that address.

Dated: December 30, 1986.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-723 Filed 1-12-87; 8:45 am]

BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-424 OL, 50-425 OL]

Georgia Power Company, et al., (Vogtle Electric Generating Plant, Units 1 and 2) Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of December 15, 1986, oral argument on the appeal of Georgians Against Nuclear Energy (GANE) from the Licensing Board's August 27, 1986, partial initial decision will be heard at 1:30 p.m. on *Wednesday, January 21, 1987, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.*

Dated: January 7, 1987.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 87-709 Filed 1-12-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-445-CPA]

Texas Utilities Electric Company, et al.; (Comanche Peak Steam Electric Station, Unit 1); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of December 22, 1986, oral argument on the appeal of the applicants and the NRC staff from the Licensing Board's October 30, 1986 memorandum and order will be heard at 10:00 a.m. on *Thursday, January 29, 1987, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.*

Dated: January 7, 1987.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 87-710 Filed 1-12-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Point Beach Nuclear Plant Units 1 and 2; Exemption

I

The Wisconsin Electric Power Company (WEPCO, the licensee) is the holder of Facility Operating License Nos. DPR-24 and DPR-27, which authorize operation of Point Beach Nuclear Plant, Units 1 and 2 (the facilities) at a steady state power level not to exceed 1518 megawatts thermal. The facilities are pressurized water reactors (PWR) located in Manitowoc County, Wisconsin. These licenses provide, among other things, that the facilities are subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

II

On November 19, 1980, the Commission published a revised § 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specified requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these subsections, III.G, is the subject of the licensee's exemption request.

Section III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier.

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and

an automatic fire suppression system shall be installed in the fire area.

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

III

By letter dated June 30, 1982, the licensee submitted its response to 10 CFR Part 50, Appendix R. This response, as supplemented on September 29, and October 11, 1982, contained a fire hazards analysis. This analysis was the foundation for exemptions requested by the licensee. By draft safety evaluation dated January 14, 1983, the NRC proposed to deny all exemptions requested except for the control room and the hydrogen hazard fire protection analysis. On March 22, 1983, an appeal meeting was held with the NRC; as a result, the licensee submitted another document dated April 28, 1983. This submittal revised certain exemption requests, withdrew unnecessary exemption requests, proposed numerous plant modifications, and created two new exemption requests, pertaining to the auxiliary building. The licensee also submitted a final fire protection report in October 1983, which described the alternate safe shutdown features and requested two additional new exemptions related to the auxiliary building. By letter dated July 3, 1985, the NRC approved exemptions for Fire Zones 1, 3, 2, 4, 7 and Fire Areas 5 and 8. Exemption requests for Fire Zone 10, portions of Fire Zone 2, and portions of Fire Area 8 were determined not to be required. By letter dated August 21, 1985, the NRC denied the switchgear room (Fire Area 6) exemption request. This exemption addresses the two exemptions requested by the licensee's April 28, 1983 submittal and the two exemption requests identified in the October 1983 final report.

By letters dated May 9, 1986 and October 10, 1986, the licensee provided information relevant to the "special circumstances" finding required by revised 10 CFR 50.12(a) (See 50 FR 50764). The licensee stated that existing and proposed fire protection features at Point Beach accomplish the underlying purpose of the rule. The licensee has provided information demonstrating that suppression and detection sufficient to protect against the fire hazards of the area has been provided for the auxiliary building. Further, the licensee has demonstrated that boundary protection and existing fire barriers for the 46 foot elevation of the auxiliary building are sufficient to protect against the fire hazards associated with that area of the auxiliary building. The licensee has also demonstrated that the existing protection afforded the residual heat removal pump zone is sufficient without installation of automatic suppression. Lastly, the licensee has demonstrated that the existing fire protection features provide sufficient and equivalent protection to that which would be provided by meeting the 20 foot separation requirement. Implementing additional modifications to provide additional suppression systems, detection systems, and fire barriers would require the expenditure of additional engineering and construction resources as well as the associated capital costs and would not enhance the fire protection capability or safe shutdown capability above that provided by the licensee's proposed modifications and existing features.

The staff has reviewed the licensee's submittal and concludes that "special circumstances" exist for the licensee's requested exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50. See 10 CFR 50.12(a)(2)(ii).

The following is a list of active exemption requests and reflects the latest status:

1. Service Water Pump Room Fire Zone, Elevation 7 feet 0 inch. An exemption was requested from the specific requirements of Section III.G.2.b to the extent that 20 feet of separation without intervening combustibles is not provided between redundant safe shutdown equipment.

2. Residual Heat Removal Pump Fire Zone, Elevation −19 feet 3 inches. An exemption was requested from the specific requirements of Section III.G.2.b to the extent that automatic fire suppression is not installed within the common residual heat removal (RHR) pump room area.

3. Auxiliary Building Fire Area, Elevations −19 feet 3 inches; −5 feet 3 inches; 8 feet; 26 feet; and 46 feet. An exemption was requested from the specific requirements of Section III.G.2.b to the extent that automatic fire suppression is not installed in the fire area.

4. Auxiliary Building, Elevation 46 feet. An exemption was requested from the specific requirements of Section III.G.2.a to the extent that the floor of the auxiliary building central area is not a 3-hour fire rated barrier.

Evaluation

The licensee requested an exemption from Section III.G.2.b to the extent that it requires 20 feet of separation without intervening combustibles between redundant safe shutdown equipment in the service water pump room fire zone on elevation 7 feet.

The service water pump room fire zone is a separate pump room within the circulating water pumphouse. This fire zone is constructed of reinforced concrete and metal panel wall sections. The roof and one wall are common components between the service water pump room and the circulating water pumphouse. The upper section of the common and east walls are constructed of metal grate; therefore, there is a free exchange of air between the service water pump room and the circulating water pumphouse.

The service water pump room is a rectangular shaped room with a ceiling height of 22 feet. The total room area is about 1,000 square feet. The total fire loading is 13,600 Btu per square foot. This fire load translates into a fire severity of less than 12 minutes as represented by the ASTM E-119 time-temperature curve.

The safe shutdown systems in the service water pump room include the six service water pumps for Units 1 and 2. There are no exposed power or control cables. Any one of the six service water pumps is capable of providing the required service water flow for both units to achieve stable hot shutdown. In addition, any two of the six pumps are required for both units to achieve cold shutdown.

The existing fire protection includes area wide smoke detection and an automatic wet pipe fire suppression system that has redundant connections to the fire main. Manual fire fighting capability is in the form of fire extinguishers and two 1½-inch hose reel stations located adjacent to the entrance doors. Although 20 feet of separation without intervening combustibles is not available between redundant systems, the licensee has installed a partial height, noncombustible wall between the service water pumps such that they are dividied into two sets of three.

Because the fire load in these locations is low, if a fire were to occur, we expect it would develop slowly, with initially low heat release and slow room temperature rise. Because of the presence of the early warning fire detection systems, the fire would be detected in its incipient stages. The fire brigade would then be dispatched and would extinguish the fire manually.

Until the fire was extinguished, the noncombustible, partial height partition between the two sets of shutdown service water pumps and the automatic sprinkler system would provide sufficient passive and active fire protection.

Based on the above evaluation, the staff concludes that the existing fire protection combined with the proposed fire protection measures in the service water pump room provides a level of fire protection equivalent to the technical requirements for Section III.G.2.b of Appendix R.

The licensee also requested an exemption from the specific requirement of Section III.G.2.b to the extent that automatic fire suppression is not installed with the common RHR pump room area on elevation −19 feet 3 inches.

The RHR pump room is a fire zone and is below grade at elevation −19 feet 3 inches. This fire zone is constructed of floors, ceilings, and walls having 3-foot-thick reinforced concrete. There are four RHR pump rooms that open into a common fifth room. Each RHR pump is in its own room. Two RHR pumps are for Unit 1 and two RHR pumps are for Unit 2.

Each RHR pump room has about 88 square feet and there are no fire loads on the floor in this zone. There are no intervening combustibles and the fire severity, as represented by the ASTM E-119 time-temperature curve, would be less than 3 minutes or negligible.

The safe shutdown equipment in this zone consists of the four RHR pumps in two pairs. Only one of each pair is required for safe shutdown of the two units. There are no power or control cables required for hot shutdown located in this fire zone. Any cable damaged can be replaced or repaired within the time span allowed for cold shutdown.

The existing fire protection includes a fire detection system throughout the fire zone. There is no automatic fire suppression system installed within the area. Manual fire fighting capability exists within the auxiliary building in the form of fire extinguishers and hose stations.

The RHR pump fire zone does not comply with the technical requirements of Section III.G.2.b of Appendix R because an automatic fire suppression system has not been installed in the fire zone.

The staff's principal concern with the level of fire protection in the RHR pump fire zone was that because of the absence of an area wide automatic fire suppression system, a fire of significant magnitude could develop and damage redundant RHR pumps. However, the fire load in these locations is negligible. If a fire were to occur, we expect that it would develop slowly, with initially low heat release and slow room temperature rise. Because of the presence of the early warning fire detection systems, the fire would be detected in its incipient stages. The fire brigade would then be dispatched and would extinguish the fire manually. The reinforced concrete barriers between the redundant RHR pumps would provide sufficient passive protection to provide reasonable assurance that one shutdown division of RHR pumps would remain free of fire damage.

The staff finds that the installation of an automatic fire suppression system would not significantly increase the level of fire protection in the RHR pump fire zone.

Based on the above evaluation, the staff concludes that the existing level of fire protection for the RHR pump fire zone provides a level of fire protection equivalent to the technical requirements for Section III.G.2.b of Appendix R.

The licensee also requested an exemption from the specific requirement of Section III.G.2.b to the extent that automatic fire suppression is not installed in the auxiliary building fire area on elevations −19 feet 3 inches; −5 feet 3 inches; 8 feet; 26 feet; and 46 feet.

The auxiliary building is composed of numerous zones and several small fire areas. It can be viewed as having a north, south, and west wing with a central area. The elevations range from −19 feet 3 inches to 46 feet. Penetration seals to other plant structures and construction joints are 3-hour fire rated. Doors exiting this area are 3-hour fire rated. These elevations are open to each other via an open stairwell and equipment hatch. The fire loading in this wing ranges from 8,000 to 28,000 Btu per square foot. This translates into a fire severity of less than 21 minutes as represented by the ASTM E-119 time-temperature curve.

The only safe shutdown equipment located in this area are the RHR heat exchangers, which are in separate compartments; the 480-V motor control centers (MCCs) B33 and B43; and the component cooling water (CCW) heat exchangers. There are no safe shutdown equipment or cables required for hot shutdown located in this area. Redundant trains of RHR cables are located on all elevations of this wing in configurations which are susceptible to damage from a single fire. However, the RHR system is not required for hot shutdown. A dedicated set of RHR pump cables will be provided for each unit. The component cooling water pumps are susceptible to damage from a single fire, but they are not required for hot shutdown. A spare pump and cables are being provided for the purpose of a repair.

Fire protection for the auxiliary building consists of an area wide fire detection system, fire extinguishers, and two 1½-inch hose reel stations located on the 8-foot elevation. The licensee verified that the lower elevations can be serviced by one of these hose stations. Also, several locations have wet pipe sprinkler systems.

The fire protection in the auxiliary building does not comply with the technical requirements of Appendix R, Section III.G.2.b because an automatic fire suppression system has not been installed in the area.

The staff's principal concern with the level of fire protection in the auxiliary building was that because of the absence of an area wide automatic fire suppression system, a fire of significant magnitude could develop and damage redundant shutdown-related systems, e.g., the MCCs or CCWs. However, the fire load in these locations is low. If a fire were to occur, the staff anticipates that it would develop slowly, with initially low heat release and slow room temperature rise. Because of the presence of the early warning fire detection systems, the fire would be detected in its incipient stages. The fire brigade would then be dispatched and would extinguish the fire. In the case of the redundant RHR cables subject to damage from a single fire, spare cables have been made available for a repair, which is allowed since the RHR system is not required for hot shutdown. The same applies to the CCW cables and pumps, and a spare CCW pump also will be provided and kept available in addition to the necessary cables.

Finally, in rooms 166, 142, 151, and 156, automatic sprinkler systems already exist. Also, areas such as the RHR pump room and six charging pump rooms have been previously evaluated and approved with respect to the absence of an automatic fire suppression system. The above areas represent over one half of the total auxiliary building area. Therefore, the balance of areas represent non-critical areas containing no hot shutdown equipment and low fire loadings. The staff finds that the installation of additional automatic fire suppression systems would not significantly increase the level of fire protection in the auxiliary building.

Based on the above evaluation, the staff concludes that the existing fire protection combined with the proposed

fire protection measures in the above fire zones provides a level of fire protection equivalent to the technical requirements of Section III.G.2.b of Appendix R.

The licensee also requested an exemption from the specific requirement of Section III.G.2.a to the extent that the floor of the auxiliary building central area on elevation 46 feet is not a 3-hour fire rated barrier.

The construction and layout of the auxiliary building are presented in detail in the preceding exemption request. Essentially, the auxiliary building is a single fire area composed of numerous zones and rooms. Redundant trains installed in the auxiliary building are separated by the floor/ceiling assembly on elevation 46. The floor/ceiling assembly is not a 3-hour fire rated barrier because it contains open stairways, doorways, and several hatches. With the exception of the CCW heat exchangers, there are no safe shutdown equipment or cables located on the 46-foot elevation. Fire protection exists in the form of a fire detection system, fire extinguishers, and 1½-inch hose reel stations. The fire load is low (8,000 Btu per square foot), and this transaltes into a fire severity of less than 6 minutes as represented by the ASTM E-119 time-temperature curve. The fire protection in the auxiliary building, elevation 46 feet, does not comply with the technical requirements of Section III.G.2.a of Appendix R because a complete 3-hour fire rated barrier has hot been provided at the floor level within the central areas.

The staff's principal concern with the level of fire protection in the auxiliary building central floor area at elevation 46 feet was that because of the absence of a complete 3-hour fire rated floor, a fire of significant magnitude could develop and damage redundant safe shutdown cables at lower levels. However, there is only a low fire load on the floor area and there are no cables or equipment required for hot shutdown in and within the central area. If a fire were to occur, then we expect it would develop slowly, with initially a low heat release and slow area temperature rise. Because of the presence of the early warning fire detection system, the fire would be detected in its incipient stages. The fire brigade would then be dispatched and would extinguish the fire. Until the fire was put out, the existing floor with its hatch covers between the central floor area on elevation 46 feet and the location of safe shutdown equipment and cables on the lower elevations would provide sufficient passive protection to provide us with reasonable assurance that one division would remain free of fire damage.

Based on the above evaluation, the staff concludes that the existing fire protection for the auxiliary building central floor area at elevation 46 feet provides a level of fire protection equivalent to the technical requirements of Section III.G.2.a of Appendix R.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), that (1) these exemptions as described in Section III are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) special circumstances are present for the exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50. Therefore, the Commission grants the exemptions from the requirements of Section III.G of Appendix R to 10 CFR Part 50 to the extent discussed in Section III above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will have no significant impact on the environment (December 29, 1986, 51 FR 46961).

The Safety Evaluated dated December 31, 1986, related to this action and the above referenced submittals by the licensee are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the local public document room located at the Joseph P. Mann Public Library, 1516 Sixteenth St., Two Rivers, Wisconsin.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 31st day of December, 1986.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Acting Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 87-689 Filed 1-12-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp.; Wisconsin Power and Light Co.; Madison Gas and Electric Co.; Denial of Request for Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the licensees for an amendment to Facility Operating License No. DPR-43 issued to the Wisconsin Public Service Corporation, et al., (the licensees), for operation of the Kewaunee Nuclear Power Plant, (the facility), located in Kewaunee County, Wisconsin.

The amendment as proposed by the licensees would modify the facility Technical Specifications (TS) by deleting snubber testing and surveillance requirements. The requirements of the ASME Code, Section XI, would be used to replace the deleted snubber TS. The licensees' application for the amendment was dated May 1, 1986. Notice of consideration of issuance of the amendment was published in the **Federal Register** on June 18, 1986 (51 FR 22246).

We have reviewed the licensees' request and have concluded, based on our evaluation, that we do not agree with the licensees' statement that the Technical Specifications 3.14 and 4.14 are redundant with the ASME Code. The frequency of examination of snubbers delineated in Technical Specification 4.14 significantly exceeds Section XI requirements and the snubbers subject to inspections in Technical Specifications 3.14 and 4.14 are not identical to those in Section XI. The staff's basis for the current examination of snubbers, as described in the Technical Specifications, is to reduce the probability of failure of snubbers in order to ensure the structural integrity of the reactor coolant system and all other safety-related systems under dynamic loading. We have concluded that major portions of the proposed Technical Specifications changes are not acceptable as they would tend to lessen structural integrity and should be denied.

The licensees were notified of the Commission's denial of this request by letter dated December 30, 1986.

By January 29, 1987, the licensees may request a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date.

A copy of the petition should also be sent to the Office of the General

Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to David Baker, Esquire, Foley and Lardner, PO Box 2193, Orlando, Florida 32082, attorney for the licensees.

For further details with respect to this action, see (1) the application for amendment dated May 1, 1986 and (2) the Commission's letter to Wisconsin Public Service Corporation dated December 30, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Division of PWR Licensing-A.

Dated at Bethesda, Maryland this 30th day of December, 1986.

For the Nuclear Regulatory Commission.

Morton B. Fairtile,

Acting Director, PWR Project Directorate #1, Division of PWR Licensing-A.

[FR Doc. 87-690 Filed 1-12-87; 8:45 am]

BILLING CODE 7590-01-M

POSTAL SERVICE

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Notice of proposal new routine use for existing system of records.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Postal Service's proposal to add a new routine use to system USPS 050.020, Finance Records—Payroll System. The new routine use will permit the disclosure of limited employee data necessary to identify current and former employees who are indebted to other Federal agencies and to collect those debts by way of salary offset pursuant to the Debt Collection Act.

DATE: Any interested party may submit written comments regarding the proposed routine use on or before February 12, 1987.

ADDRESS: Comments may be mailed to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260-5010, or delivered to Room 8121 at that address between 8:15 a.m. and 4:45 p.m. where they will be available for inspection during those hours.

FOR FURTHER INFORMATION CONTACT: Betty E. Sheriff, Records Office (202) 268-5158.

SUPPLEMENTARY INFORMATION: Congress's stated intent in its passage of the Debt Collection Act of 1982 is "To increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts." An important provison of that Act permits a Federal employee's salary to be offset to satisfy debts owed the Government. As a Federal agency subject to this provision, the Postal Service considers it particularly appropriate to cooperate with other Federal agencies in the identification of postal employees indebted to those agencies. The Postal Service therefore proposes to undertake or to participate in computer matches of its payroll files against the requesting agency's debtor files for the purpose of identifying federally indebted postal employees.

Proposed routine use No. 34 will permit the Postal Service to furnish limited data about its current and former employees to requesting Federal agencies under approved computer matching efforts in which either the Postal Service or the requesting Federal agency acts as the matching agency. Disclosure will be limited to only those data elements considered necessary to making a determination of indebtedness and to enable the agency to which the individual is indebted to take the legally required steps granting due process rights prior to salary offset. The Debt Collection Act and the Postal Service's implementing procedures require the creditor agency to notify the debtor of his/her rights with respect to the claim and to give the individual the opportunity to resolve the claim before salary offset is initiated.

The above described matches will be conducted in accordance with the Office of Management and Budget's Revised Supplemental Guidelines for Conducting Matching Programs (47 FR 21656, May 19, 1982). The Postal Service will obtain a signed agreement from the requesting agency specifying that the information disclosed by the Postal Service will be used for purposes of the computer match and for no other purposes and specifying that the information will be safeguarded against unauthorized disclosure.

Disclosure under the proposed routine use is compatible with the Postal Service's personnel management responsibility for oversight of its employees' conduct, particularly with regard to the expectation that employees pay their just financial obligations in a proper and timely manner. Further, such disclosure is compatible with the authority given at section 5 of the Debt Collection Act.

System USPS 050.020 last appeared in 51 FR 29028, August 13, 1986.

Accordingly, it is proposed to add new routine use 34 as follows:

* * * * * *

34. Disclosure of information about current or former postal employees may be made to requesting Federal agencies under approved computer matching efforts in which either the Postal Service or the requesting entity acts as the matching agency. Disclosure will be limited to only those data elements considered relevant to identify individuals who are indebted to those agencies and to provide those individuals with due process rights prior to initiating any salary offset, pursuant to the Debt Collection Act.

Fred Eggleston,

Assistant General Counsel Legislative Division.

[FR Doc. 87-682 Filed 1-12-87; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23968; File No. S7-33-86]

Joint Industry Plan; Filing of Proposed Reporting Plan for Over-The-Counter Securities Traded on an Exchange on the Unlisted Trading Privilege Basis

On December 17, 1986, pursuant to Rules 11Aa3-2 and 11A3-1 under the Securities Exchange Act of 1934 ("Act"), the National Association of Securities Dealers, Inc. (NASD") together with the Midwest Stock Exchange, Inc. ("MSE") filed with the Commission a proposal plan governing the collection, consolidation and dissemination of quotation and transaction information for certain National Market System ("NMS") securities listed on an exchange or traded on an exchange pursuant to a grant of unlisted trading privileges ("UTP").

I. Background

Currently, exchanges trade only securities listed on the exchange or, pursuant to UTP, securities listed on another national securities exchange. On September 16, 1985, after lengthy proceedings,[1] the Commission issued a

[1] On November 16, 1984, the Commission issued a release soliciting comment on both the general issue of whether UTP in over-the counter ("OTC") stocks should be granted, and on specific questions to be addressed before the grant of such privileges. Securities Exchange Act Release No. 21498 (November 16, 1984), 49 FR 46156. *See* also Securities Exchange Act Release No. 22583 (December 18, 1984); 50 FR 730; and 22127 (June 21, 1985) 50 FR 26584.

release announcing the terms and conditions under which the Commission would consider granting exchanges UTP in NMS Securities.[2] Generally, the Commission determined to establish a one year pilot in which each exchange could receive UTP in up to 25 NMS Securities. The Commission conditioned the grant of UTP, however, on agreement by the exchanges and the NASD on a plan for providing joint dissemination of quotation and transaction information ("consolidated plan").[3] The Commission also determined that, while it was premature to require any specific type of market linkages prior to the initiation of trading, the exchanges must provide OTC market makers direct access to the exchange specialists in UTP securities to facilitate intermarket trading in these securities. Finally, the Commission stated that it would evaluate trading under the one year pilot and at the end of the pilot would determine what further action to take in this area.

A. Status of Current Negotiations

Since October 1985, the NASD, Amex, Boston ("BSE"), Cincinnati ("CSE"), Pacific ("PSE") and Philadelphia ("Phlx") Stock Exchanges, and the Chicago Board Options Exchange ("CBOE")[4] have been negotiating the terms of a joint self-regulatory organization ("SRO") plan for consolidated quotation and transaction reporting. Substantial progress has been made on the contents and language of the plan. Specifically, the participant SROs have reached agreement on: The governance of the UTP/OTC facility; deferral, generally, of revenue issues until one year after commencement of the plan; and, in concept,[5] the development of either a new processing facility, separate from but operated by, NASDAQ, or modifications to NASDAQ, that would provide for the collection, consolidation and dissemination of quotations and transactions, with market identifiers, in OTC/UTP securities.

The Commission recognizes the good faith efforts of the exchanges and the NASD in negotiating this plan. The Commission is also cognizant, however, of the long delay in reaching final agreement on the plan. The Commission, therefore, expects the exchanges and the NASD to commit every needed resource to complete the plan by the end of February 1987. Even assuming, however, agreement in the near future on this plan, the commencement of UTP trading under this plan appears to be at least six months away.[6]

The MSE has determined that it no longer wishes to delay commencing trading OTC/UTP securities until there is agreement upon and implementation of the plan that has been the focus of the negotiations to date. Instead, the MSE wishes to commence trading as soon as possible under a plan, described below.[7] The proposed plan essentially provides for the MSE[8] to use currently available NASDAQ equipment, rather than a separate processor, to submit to NASDAQ quotation and transaction information in the securities MSE seeks to trade on a UTP basis.

II. Description of Plan

The proposed plan[9] provides for the collection, consolidation and dissemination of quotation and transaction information in "eligible securities," *i.e.*, NMS securities traded on an exchange on a listed or a UTP basis. Although the signatories to the proposed plan are the Midwest and NASD, the plan states that "[a]ny other national securities association or national securities exchange . . . . may become a [p]articipant" upon execution of the plan. The plan would become effective after Commission approval on that date on which the participants are prepared to, and do, commence publication of quotation and transaction information in eligible securities as contemplated by the plan.

The plan makes specific provision for (1) administration of the plan by the participants through an operating committee;[10] (2) selection, and evaluation of the performance of the processor, which for an initial five year term would be NASDAQ[11] and (3) the functions of the processor.

The processor would use the existing NASDAQ System and the NASD's transaction reporting system to collect, consolidate and disseminate quotation and transaction information in eligible securities from NASDAQ market makers and exchange participants. Participants would enter quotation information into the NASDAQ system through either NASDAQ terminals provided by the processor, or by "terminal emulation," *i.e.*, by conforming the participant's own equipment to NASDAQ specifications. It is expected that the former method will be used. Transaction reports would be entered into the NASDAQ system through either NASDAQ terminals, terminal emulation, or through a computer-to-computer interface ("CTCI") that conforms to NASDAQ specifications.

The processor would disseminate consolidated quotation and transaction information to vendors, subscribers and others "in a fair and non-discriminatory manner."[12] The processor would

[2] Securities Exchange Act Release No. 22412 (September 16, 1985) 50 FR 38640 ("OTC/UTP Release"). Of course, the grant of UTP in specific securities would be pursuant to Section 12 (f) of the Act and only after the notice and comment period specified in that Section. *See infra*, note *19*.

[3] This requirement parallels the systems for disseminating information on listed securities, where all exchanges and the NASD are participants in the Consolidated Tape Association ("CTA") and Consolidated Quotation System ("CQS"). The systems are operated by the Securities Industry Automation Corporation ("SIAC"), a corporation jointly owned by the American ("Amex") and New York ("NYSE") Stock Exchanges. The UTP Release indicated that NASDAQ would be the appropriate system through which trade reporting should occur for securities subject to OTC/UTP and that NASDAQ, Inc., the NASD subsidiary that currently operates last sale reporting and quotation systems for the NASD's market, appeared to be qualified to serve as processor for exchange and OTC quotations and last sale reports for such securities.

[4] The NYSE chose not to participate in these discussions because it is not at this time interested in applying for UTP in OTC stocks. While the BSE also is not interested in trading OTC securities pursuant to UTP, it does have several NMS Securities listed on the exchange, thus requiring it to enter into a joint plan. *See* Securities Exchange Act Release No. 22413 (September 16, 1985), 50 FR 38515.

[5] The participants have not agreed upon the cost and timing of implementation of either a new facility or modification to NASDAQ.

[6] The NASD has indicated that the time required to complete the processor could easily exceed six months. In view of the long delays already experienced, and because the Commission considers commencement of OTC/UTP trading a priority NASDAQ issue, the Commission urges the NASD to complete development of the processor at the earliest practicable date.

[7] The MSE also has submitted an application for UTP in 25 OTC stocks. Notice of MSE's application pursuant to section 12(f)((1)(C) of the Act is being published concurrently with publication of this release in Securities Exchange Act Release No. 23967.

[8] Any other exchange would be free to become a participant in this plan.

[9] The following is a summary of the major provisions of the plan. Copies of the full plan are available at the Commission, the NASD, and the MSE.

[10] Unanimous votes would be required for certain matters including amendments to the plan; reduction of fees charged by the plan; and termination of the processor for other than "reasonable cause."

[11] Among other things, the plan provides that participants will not request system changes by the processor for 12 months after the plan becomes effective.

[12] The plan specifically permits the NASD to continue in effect its existing quotation exchange agreement with the London Stock Exchange, (*see* Securities Exchange Act Release No. 23158 (April 21, 1986), 51 FR 15989) and states that the NASD or any of its subsidiaries could disseminate outside of the United States quotation and transaction information regarding any OTC/UTP security in any manner "it deems proper." The MSE has expressed its concern over the possibility that NASDAQ might use this discretion to deny consolidated UTP data (*i.e.*, combined NASDAQ and exchange data) even to those foreign entities that affirmatively request such information. *See* letter from Charles V.

Continued

disseminate on NASDAQ Level 1 service [13] a consolidated best bid and asked quotation with size based upon quotation information for eligible securities received from all exchange participants and NASDAQ market makers. Under the proposed plan the consolidated best bid and asked quotation on Level 1 will not contain a market identifier.[14]

The processor also would disseminate a data stream of all quotation and transaction reports regarding eligible securities received from the participants. Each quote would be designated with a symbol identifying the exchange participant or NASDAQ market maker from whom the quotation emanates. Initially, transaction reports will not include a participant identifier.

The plan also provides for the manner in which each participant shall submit quotations and transaction reports to the processor, and specifically requires that transaction reports be submitted within 90 seconds after execution of the transaction. [15]

The plan provides that the processor shall cease disseminating quotations to vendors if the "primary market" [16] for a security calls a "regulatory" trading halt or quotation suspension, [17] and provides that participant markets that continue trading during such a halt shall continue to transmit transaction reports to the processor. [18] The processor is required to disseminate to vendors any such transaction reports. The plan provides that when the primary market determines that adequate publication of information has occurred to allow the termination of a regulatory halt, the primary market shall notify the processor and each participant trading the security. Adequate publication is deemed to occur one hour after publication of the information in a national news dissemination service.

The plan provides that each exchange participant shall permit NASDAQ market makers direct telephone access to the specialist post in each eligible security in which the market maker is registered, and requires the NASD to ensure exchange participants equivalent telephone access to NASDAQ market makers.

Finally, the plan generally provides that questions concerning cost allocation and revenue sharing among participants shall be deferred until one year after the date of execution of the plan.

III. Request for Comment

Interested persons are invited to submit written comments concerning the proposed plan. [19] Persons submitting comments should file six copies with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission and related items, 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 Room, 450 Fifth Street, NW., Washington, DC. All communications should refer to File No. S7-33-86 and should be submitted by February 12, 1987.

Dated: January 7, 1987.

By the Commission.

Shirley E. Hollis,

Secretary.

[FR Doc. 87-673 Filed 1-12-87; 8:45 am]

BILLING CODE 8010-01-M

Doherty, President, MSE, to Jonathan G. Katz, Secretary, SEC, dated November 19, 1986.

The Commission notes that the effect of Rule 11Acl-2 under the Act is to require that quotation and transaction information be made available on a non-discriminatory basis to domestic vendors of securities information. Moreover, because the requirement for the display of information flows from the goals of a national market system as specified in Section 11A of the Act (*e.g.*, fair competition among markets and the ability of investors to achieve best execution) it appears that those goals would be furthered by the availability of such information abroad to persons who request the information. The Commission notes that the NASD's representatives have indicated a willingness to include a provision in the permanent UTP Plan that would require the NASD as processor to disseminate consolidated information to foreign vendors who request that information. The Commission endorses that position expects that the NASD would reach the same position and regarding any request for information pursuant to the interim plan.

[13] NASDAQ Level 1 service provides the best bid and offer quotations in each NASDAQ security without identifying market makers.

[14] By letter agreement, the NASD and MSE have indicated that should the permanent joint SRO plan (which is expected to include a specific timetable for implementation of market identifiers) not be executed by November 20, 1987, or should negotiations regarding a permanent plan be abandoned, the NASD and MSE will use their best efforts to implement market identifiers with regard to best bid and ask quotations as well as volume dissemination and computer-to-computer quotation entry capacity within six months from the earlier of such events to occur. *See* Letter from Charles V. Doherty, President, MSE, to Frank Wilson, NASD, dated November 20, 1986. Implementation by the MSE and NASD of any of these features will require amendment of the Plan.

[15] The plan does not include provisions addressing the issue of locked and crossed quotations in eligible securities or trade throughs. Instead, the NASD has indicated that it will enforce its members' best execution obligations and will take into account the MSE's or other exchanges' quotations in UTP securities in doing so. *See* Letter from Frank Wilson, NASD, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated December 3, 1986. The MSE in turn has indicated that it will discipline any MSE member who intentionally locks a NASDAQ quote for the purpose of disturbing the operation of OTC automated execution systems. *See* Letter from George T. Simon, Counsel to MSE, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated December 11, 1986.

[16] The term "primary market" is defined to mean NASDAQ unless another market obtains 50% of share and transaction volume in a security over a 12-month period.

[17] The proposed plan requires that whenever a regulatory halt or quotation suspension is called by the primary market because it has determined "that there are matters relating to the security or the issuer thereof that have not been adequately disseminated to the public, or that there are regulatory problems relating to the security that should be clarified before trading therein is permitted to continue," the primary market must notify the processor and each participant trading the security and provide the reasons for the halt or suspension. The NASD currently does not have rules enabling it to halt trading by its members, but does have procedures for suspending quotations. *See infra*, not 18.

[18] In this regard, the Commssion notes that, although the Plan and current NASD and exchange rules do not require NASD and exchange members to stop trading during a quotation suspension, Rule 11Ac-1-1 under the Act ("Quote Rule") requires an exchange or the NASD to make available to vendors quotations of any of their members who continue to trade "subject securities" during a quotation suspension. *See* Rule 11Ac1-1(b)(i) and (ii). Accordingly, the MSE and the NASD may wish to discuss with the Commission's staff obtaining interpretive or other relief regarding the application of these provisions of the Quote Rule to the Plan's proposed quotation suspension provisions.

[19] As indicated above, at note 7, notice of MSE's application for UTP on certain securities has been published separately, and persons desiring to comment on that application should refer to that release. The Commission also notes that commencement of trading under the proposed MSE/NASD plan will not trigger the one-year evaluation period announced in the OCT/UTP release. *See* OCT/UTP Release, *supra* note 2. The intent of this pilot period was to allow Commission evaluation under the full terms and conditions (including market identifiers) announced in the OCT/UTP Release before the Commission considered expanding the grant of UTP to a greater number of securities.

Self-Regulatory Organizations; Midwest Stock Exchange; Application for Unlisted Trading Privileges in Certain Over-the-Counter Securities

January 7, 1987.

The Midwest Stock Exchange, Inc. ("MSE") on December 18, 1986, submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 in the following over-the-counter ("OTC") securities, *i.e.*, securities not registered under Section 12(b) of the Act:

Symbol	Issuer	File No.
AGREA	American Greetings Corp., Class A	7-9472
AAPL	Apple Computer, Inc.	7-9473
TATE	Ashton Tate	7-9474
BMGC	Battle Mountain Gold Co.	7-9475
CMCO	Comb Co.	7-9476
CVGT	Cetus Corp.	7-9477
DIGI	DSC Communications Corp.	7-9478

Symbol	Issuer	File No.
DAZY	Daisy System Corp.	7-9479
GENE	Genetech Inc.	7-9480
HENG	Henley Group Inc.	7-9481
INTC	Intel Corp.	7-9482
INGR	Intergraph Corp.	7-9483
KEMC	Kemper Corp.	7-9484
LIZC	Liz Claiborne Inc.	7-9485
LOTS	Lotus Development Corp.	7-9486
LMED	Lyphomed Inc.	7-9487
MCIC	MCI Communications Corp.	7-9488
MAXI	Maxicare Health Plans Inc.	7-9489
PCLB	Price Co.	7-9490
SGAT	Seagate Technologies	7-9491
SMED	Shared Medical Systems Corp.	7-9492
SHON	Shoneys Inc.	7-9493
TNDM	Tandem Computers Inc.	7-9494
TCOMA	Telecommunications Inc. Cl. A	7-9495

Comments

Interested persons are invited to submit on or before January 28, 1987, written comments, data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Commentators are requested to address whether they believe the grant of UTP is consistent with section 12(f)(1)(C). In considering an application for extension of UTP to OTC securities under section 12(f)(1)(C), the Commission is required to take account of, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system. The Commission may not grant such application if any rule of the national securities exchange making an application under 12(f)(1)(C) would unreasonably impair the ability of any dealer to solicit or effect transactions in such security for his own account, or would unreasonably restrict competition among dealers in such security or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists. In this connection, commentators should note that the Commission previously has stated, as a general matter, that the grant to an exchange of UTP for up to 25 OTC stocks pursuant to section 12(f)(1)(C) would be appropriate, subject to the establishment of a facility for consolidating the OTC and exchange reports of quotations and transactions in such securities.[1] The NASD and MSE have submitted a plan intended to provide for such a reporting facility.[2] Accordingly, commentators may wish to address the specific question of UTP regarding these securities in the context of the Commission's general policy statements in this area.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-674 Filed 1-12-87; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release No. 22412 (September 16, 1985) 50 FR 38640.

[2] *See* Securities Exchange Act Release No. 23698 (January 7, 1987). Commentators wishing to discuss the proposed MSE/NASD consolidated reporting plan should refer to the release noticing that plan.

[Rel. No. IC-15522; 812-6503]

Investors Life Insurance Co. of North America and Life Insurance Co. of North America; Applications

January 6, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application under the Investment Company Act of 1940 (the "1940 Act").

Applicant(s): Investors Life Insurance Company of North America ("Investors Life"), CIGNA Separate Account I ("CIGNA Account"), Life Insurance Company of North America ("LINA") and INA Security Corporation.

Relevant 1940 Act sections: Order requested *under* section 17(d) and Rule 17d-1.

SUMMARY OF APPLICATION: Applicants seek the relief necessary to permit holders of Group Fixed Annuity Contracts to exchange their contracts for the individual flexible premium deferred variable annuity contracts which are offered by the CIGNA Account.

FILING DATE: The Application was filed on October 14, 1986, and amended on December 22, 1986.

Hearing or notification of hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 2, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant(s) with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Investors Life, CIGNA Account, LINA and INA Security Corporation, 1600 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Clifford E. Kirsch (202) 272-3032 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Investors Life is a stock life insurance company organized under the laws of the Commonwealth of Pennsylvania in 1963 and is currently an indirect wholly-owned subsidiary of CIGNA Corporation. Investors Life is authorized to conduct a full line of life insurance business, including fixed annuities and variable annuities, in the District of Columbia and in all states of the United States except New York. In Arizona, Oregon and Wyoming, business is conducted under the name of INA Investors Life Insurance Company.

2. LINA is a stock life insurance company incorporated in the State of Pennsylvania on September 21, 1956. It is licensed to write life insurance and annuities in all states of the United States except New York. LINA is an indirect wholly-owned subsidiary of CIGNA Corporation. CIGNA Corporation was formed on March 31, 1982, as a result of the merger of INA Corporation and Connecticut General Corporation.

3. The CIGNA Account has been established by Investors Life pursuant to the provisions of the Pennsylvania Insurance Code. The assets of the CIGNA Account are invested in shares of CIGNA Annuity Funds Group ("CIGNA Fund"), a registered, diversified, open-end, management investment company originally incorporated as INA Annuity Fund, Inc., under the General Corporation Law of Maryland in 1981. CIGNA Fund offers three different portfolios of investments. Each CIGNA Account portfolio division is divided into two subdivisions, one for allocations made for contracts issued under tax qualified retirement plans and the other for non-tax qualified contracts.

The investment adviser of the CIGNA Fund is CIGNA Investments Inc., an indirect subsidiary of CIGNA Corporation.

4. Investors Life is the "Depositor" and "Sponsor" of the CIGNA Account. INA Security Corp., an indirect wholly-owned subsidiary of CIGNA Corporation, is a registered broker-dealer. It is also the principal underwriter of the variable annuity contracts ("CIGNA Contracts") participating in the CIGNA Account.

5. Investors Life and LINA have issued Group Fixed Annuity Contracts ("Group Fixed Contracts") whereby funds contributed by individual participants ("Group Certificateholders") accumulate in accordance with the terms of the policy, at a fixed rate of interest which may vary from time to time but which is guaranteed to be not less than 4% per annum.

6. Investors Life and LINA state that although the Group Fixed Contracts were originally appropriate and competitive when developed, the recent decline in the amount of reserves held under the Group Fixed Contracts may be attributable to the desire of Group Certificateholders to obtain a wider array of funding philosophies for their retirement fund, such as those offered by the CIGNA Contracts.

7. Applicants propose to offer the Group Certificateholders the opportunity to exchange their Group Certificates for the CIGNA Contracts so that each Certificateholder who accepts the offer will be entitled to have the total amount accumulated under his or her Group Certificate transferred to a CIGNA Contract, less applicable state premium taxes.

8. The deferred sales charge otherwise applicable under the CIGNA Contracts will not be applicable to accumulation values derived from such transferred amounts. The cost of the proposed exchange offer will be borne entirely by the Applicants and not by Group Certificateholders or by the owners of the CIGNA Contracts participating in the CIGNA Account. The minimum payment requirement of $500 in the CIGNA Contracts will be waived for any Group Certificateholder whose accumulated value is less than this minimum.

9. Each Group Annuity Certificateholder will, prior to his acceptance of the offer of exchange, receive:

(1) A current prospectus of the CIGNA Account and of the CIGNA Fund,

(2) A sticker supplementing the prospectus of the CIGNA Account describing the exchange offer, the waiver of surrender charges with respect to amounts transferred and applicable tax disclosures,

(3) An Exchange Authorization Form, which includes a statement by the participant that the transaction is intended by him to be a tax free exchange under Section 1035 of the Internal Revenue Code of 1954, as amended, and

(4) An annuity contract application form.

10. Applicants state that after completion of an Exchange Authorization Form, Group Certificateholders will be able to allocate their transferred amounts among any of the three investment choices available under the CIGNA Account—"Money Market," "Equity" or "Income".

11. Group Certificateholders who elect not to accept the exchange offer have the right to continue their Group Certificate in effect as if the exchange offer had not been made.

12. Group Certificateholders may cancel the new CIGNA Contract by sending notice to Investors Life within 10 days after its receipt, as described in the prospectus for the CIGNA Account.

13. The CIGNA contracts contain a deferred sales charge of up to 7% of amounts withdrawn which will be waived with respect to amounts transferred from the Group Fixed Contracts upon acceptance of this exchange offer. However, future payments into the CIGNA Contracts will be subject to such charges, as well as other contractual fees.

14. The CIGNA Contracts contain three investment options which are available through CIGNA Account's investments in the portfolio of the underlying CIGNA Fund. These options are: Money Market, Equity, and Income.

15. Effective February 2, 1987, two additional investment options are expected to be made available, Growth and Income Fund and Aggressive Equity Fund. Further classes of CIGNA Fund shares may be authorized in the future, and Investors Life may create corresponding additional Divisions of the CIGNA Account for the allocation of CIGNA Contract values.

16. The management of Investors Life and LINA have made a determination that Group Certificateholders should be permitted the opportunity to avil themselves of a multiple investment variable annuity contract.

17. Applicants state that since acceptance of the offer is optional with Group Certificateholders, the proposal does not raise the issues normally considered in an application under section 17(d).

18. Applicants seek Commission approval under section 17(d) and Rule 17d-1 with respect to the proposed offer to allow the Group Fixed Certificateholders the opportunity to exchange their contracts for the CIGNA Contracts on the basis discussed in the Application, on the grounds that such an exchange would be fair to all parties, would involve no overreaching by the affiliated parties and would be consistent with the provisions, policies and purposes of the 1940 Act as contemplated by Rule 17d-1, and that each participant's participation is not different from or less advantageous than that of other participants.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-675 Filed 1-12-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #6463; Amdt. #1]

Declaration of Disaster Area; Idaho

The above-numbered Declaration (51 FR 41198) is hereby amended to change the interest rate for non-profit, eleemosynary and similar organizations from 10.5 percent to 9.5 percent. Any loans approved to an organization in this group between October 1, 1986, and this date, will be automatically adjusted to reflect the new rate. All other information remains the same.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: November 19, 1986.

Bob Webber,

Acting Administrator.

[FR Doc. 87-683 Filed 1-12-87; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2256; Amdt. #1]

Declaration of Disaster Area; Kansas

The above-numbered Declaration (51 FR 37532) is hereby further amended to change the interest rate for non-profit, eleemosynary and similar organizations from 10.5 percent to 9.5 percent. Any loans approved to an organization in this group between October 1, 1986, and this date, will be automatically adjusted to reflect the new rate. All other information remains the same.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: November 19, 1986.

Bob Webber,

Acting Administrator.

[FR Doc. 87-684 Filed 1-12-87; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2255; Amdt. #2]

Declaration of Disaster Area; Missouri

The above-numbered Declaration (51 FR 37532), as amended (51 FR 40364), is hereby further amended to change the interest rate for non-profit, eleemosynary and similar organizations from 10.5 percent to 9.5 percent. Any loans approved to an organization in this group between October 1, 1986, and this date, will be automatically adjusted to reflect the new rate. All other information remains the same.

(Catalog of Federal Domestic Assistance Programs No. 59002 and 59008)

Dated: November 19, 1986.

Bob Webber,

Acting Administrator.

[FR Doc. 87-685 Filed 1-12-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/1036]

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 Tuesday, January 27, 1987 at 09:00am in the offices of the American Management Association, 135 West 50th Street, New York, N.Y. Pursuant to section 10 (d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c) (4), it has been determined that the meeting will be closed to the public. Matter relative to privileged commercial information will be discussed. The agenda calls for this discussion of private sector physical security policies and concepts in use at sensitive locations overseas.

Dated: January 6, 1987.

Lou Schwartz,

Deputy Assistant Secretary for Diplomatic Security.

[FR Doc. 87-707 Filed 1-12-87; 8:45 am]

BILLING CODE 4710-24-M

[CM-8/1037]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea, Working Group on Ship Design and Equipment; Meeting

The Working Group on Ship Design and Equipment of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on January 29, 1986 at 9:30 a.m. in Room 2415 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of the meeting will be to discuss the activities of the Intersessional meeting of the ad hoc working group on machinery and electrical installations to the International Maritime Organization (IMO) Subcommittee on Ship Design and Equipment (DE) and to prepare for the 30th Session of IMO DE, scheduled for June 1 to 5, 1987.

The major items discussion will be the following:

1. Review of the MODU Code—An ad hoc working group was established at IMO DE 29 for consideration of the periodic review of the MODU Code. Additionally, the Maritime Safety Committee (MSC) at its 53rd Session authorized an intersessional meeting, to be held the week of January 19, 1987 in Genoa, of the ad hoc working group on machinery and electrical installations for consideration of Chapters 4–8 of the MODU Code. Discussions will focus on the development of finalized U.S. position papers in preparation for IMO DE 30 on the following: harmonization efforts by the U.K. on MODU Operating Manuals; issues from Chapters 4–8 of the MODU Code based on papers presented at the intersessional meeting; and, proposed amendment changes to Chapters 1 and 10 of the MODU Code.

2. Watertight Doors in Passenger Ships—Further development of draft amendments to Regulations II-1/15 of the 1974 SOLAS Convention, as amended, was conducted at the 29th Session of IMO DE. Discussions will focus on the substance of these drafts and the need to finalize a U.S. position paper for the 30th DE Session.

3. Maneuverability of Ships—Discussions will include the development of maneuvering standards from the final version of the draft assembly resolution on "Recommendation on the Provision and the Display on Manoeuvering Information on Board Ships" which will supersede the recommendation on maneuvering information adopted by resolution A.209(VII).

Other items of discussion include:

4. Helicopter facilities.

5. Materials other than steel for pipes.

6. Below deck openings into cargo tanks.

7. Review of the International Maritime Dangerous Goods (IMDG) Code—Review the introduction of Class 1, explosives, on electrical requirements and lighting protection.

8. Design and construction of sea inlets under slush ice conditions.

Members of the public may attend up to the seating capacity of the room.

For further information contact Captain G. G. Piche', U.S. Coast Guard Headquarters (G-MTH), 2100 Second Street, SW., Washington, DC 20593-0100; Telephone: (202)267-2967.

Dated: December 29, 1986.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 87-708 Filed 1-12-87; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 162; Aviation System Design Guidelines for Open Systems Interconnection (OSI); Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 162 on Aviation System Design Guidelines for Open Systems Interconnection (OSI) to be held on February 2-4, 1987, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) approval of minutes of the first meeting; (3) review of agreements reached at first meeting; (4) briefing on applications program for external data communication; (5) briefing on presentation layer, considerations for avionics; (6) briefing on Global-Wultsberg data communications system and services; (7) briefing on inter-networking considerations; (8) briefing on FAA's plans for Mode S air-ground communications; (9) briefing on interaction of FAA ground-based facilities; (10) development of a framework for default data communications; (11) continued development of initial outline for committee report; (12) assignment of tasks; and (13) other business.

Attendance is open to the interested public but limited to space available. With the appoval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC on January 7, 1987.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 87-621 Filed 1-12-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1986 Rev., Supp. No. 10]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; Oregon Automobile Insurance Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Oregon Automobile Insurance Company, of Portland, Oregon, under the United States Code, Title 31, section 9304-9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 51 FR 23946, July 1, 1986.

With respect to any bonds currently in force with Oregon Automobile Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20226, telephone (202) 634-2214.

Dated: January 7, 1987.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 87-686 Filed 1-12-87; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF COMMERCE

International Trade Administration

Importers and Retailers' Textile Advisory Committee; Partially Closed Meeting

A meeting of the Importers and Retailers' Textile Advisory Committee will be held on Friday, Janaury 16, 1987 at 10:30 a.m., at the American Association of Exporters and Retailers, 11 W. 42nd Street, 30th Floor, New York, New York. (The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials of the the effects on import markets of cotton, wool, and man-made fiber textile apparel agreements.)

General Session: 10:30 a.m. Review of import trends, international activities, report on conditions in the market, and other business.

Executive Session: 11:00 a.m. Discussion of matters properly classified under Executive Order 12356 (3 CFR Part (1982)) and listed in 5 U.S.C. 552b(c)(1).

The general session will be open to the public with the limited number of seats available. A Notice of Determination to close meetings or portions of meetings to the public on the basis of 5 U.S.C. 553b(c)(1) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Facility Room 6628, U.S. Department of Commerce, (202) 377-3031.

For further information or copies of the minutes contact Helen L. LeGrande, (202) 377-3737.

Dated: January 12, 1987.

Ronald I. Levin,

Acting Chairman, Importers and Retailers' Textile Advisory Committee.

[FR Doc. 87-878 Filed 1-12-87; 11:31 am]

BILLING CODE 3510-DR-M

VETERANS ADMINISTRATION

Scientific Review and Evaluation Board for Rehabilitation and Development; Meeting

In accordance with Pub. L. 92-463, the Veterans Administration gives notice of a meeting of the Scientific Review and Evaluation Board for Rehabilitation Research and Development. This meeting will convene at the Vista International Hotel, 1400 "M" Street NW., Washington, DC 20005, January 13 through January 15, 1987, beginning at 6:30 p.m. on Tuesday. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the January 13th session for approximately one-two hours to cover administrative matters and to discuss the general status of the program and the administrative details of the review process. During the closed session, the Board will be reviewing research and development applications. This review involves oral comments, discussion of site visits, staff and consultant critiques of research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy.

Proprietary data from contractors and private firms will also be presented and this information should not disclosed in a public session. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with section 552b, subsection (c)(4), (c)(6) and (c)(9)(B), Title 5, United States Code and the determination of the Administrator of Veterans Affairs under section 10(d) of Pub. L. 92-463 as amended by section 5(c) of Pub. L. 94-409.

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Larry P. Turner, Ph.D., Administrative Officer, Rehabilitation Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC 20420, Phone: 202-233-5177 at least five days before the meeting.

Due to administrative delays, this notice will not appear 15 days prior to the meeting date.

Dated: January 5, 1987.

By direction of the Administrator.

Dennis R. Boxx,

Executive Assistant, Office of Public and Consumer Affairs.

[FR Doc. 87-879 Filed 1-12-87; 11:32 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 8
Tuesday, January 13, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 15, 1987, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and *Subject*

Private Radio—1—Title: Amendment of Parts 2, 22, and 94 of the rules concerning rules and policies governing 900 MHz multiple address system operations. Summary: The FCC will consider whether to propose revising the rules governing 900 MHz multiple address system operations.

Mass Media—1—Title: Report on the States of the AM Broadcast Rules. Summary: Based upon the Mass Media Bureau's recent *Report on the Status of the AM Broadcast Rules* and comments filed in response to that staff report, the Commision will consider a course of action for reviewing a wide range of rules and policies relating to AM broadcasting in the near term and beyond.

Mass Media—2—Title: Synchronous Transmitters for AM Broadcasting Stations. Summary: The Commission will consider adoption of a *Notice of Inquiry* concerning the use of synchronous transmitters by AM broadcasting stations.

Mass Media—3—Title: Notice of Proposed Rule Making to Amend § 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules. Summary: The Commission will consider whether to propose modifications to its multiple ownership rules pertaining to radio stations.

Mass Media—4—Title: Satellite Television Stations. Summary: The Commission will consider whether to initiate a proceeding to review the policies and rules relating to authorization of television satellite stations.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sarah Lawrence, FCC Office of Congressional and Public Affairs, telephone number (202) 632-5050

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 87-805 Filed 1-9-87; 2:46 pm]

BILLING CODE 6712-01-M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 899, January 9, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 14, 1987, 10:00 a.m.

CHANGE IN THE MEETING: The Commission meeting will be held in Hearing Room A, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plumb,
Secretary

[FR Doc. 87-815 Filed 1-9-87; 3:05 pm]

BILLING CODE 6717-02-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-87-02]

TIME AND DATE: Wednesday, January 21, 1987 at 11:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints:
   Certain ink jet printers employing solid ink (Docket Number 1369).
5. Inv. 731-TA-309 (F) (Certain butt-weld pipe fittings from Japan)—briefing and vote.
6. Any items left over from previous agenda: none.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

Kenneth R. Mason,
Secretary.

January 7, 1987.

[FR Doc. 87-804 Filed 1-9-87; 2:46 pm]

BILLING CODE 7020-02-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 12, 1987:

A closed meeting will be held on Tuesday, January 13, 1987, at 2:30 p.m. Open meetings will be held on Wednesday, January 14, 1987 at 9:30 a.m. and on Thursday, January 15, 1987, at 2:00 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 13, 1987, at 2:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Formal orders of investigation.
Opinion.

The subject matter of the open meeting scheduled for Wednesday, January 14, 1987, at 9:30 a.m., will be:

1. Consideration of whether to adopt amendments to Rule 10b-6, 17 CFR 240.10b-6, under the Securities Exchange Act of 1934. The amendments pertain to such matters as solicited brokerage transactions, standardized call options, and the rule's applicability to affiliates of broker-dealers. For further information, please contact Nancy J. Burke at (202) 272-2848.

2. Consideration of whether to issue two releases: (1) Proposing for comment various revisions to Regulation D, the Commission's limited offering exemptions from the registration requirements of the Securities Act of 1933. That proposed rulemaking would also contain a new exemptive provision (outside of Regulation D) from such registration provisions for offers and sales of securities pursuant to the employee compensation plans or arrangements of non-reporting companies. (2) publishing for information purposes the securities regulation recommendations of the Fifth Annual Government-Business Forum on Small Business Capital Formation. For further

information, please contact Karen M. O'Brien at (202) 272-2644.

The subject matter of the open meeting scheduled for Thursday, January 15, 1987, at 2:00 p.m., will be:

The Commission will meet with representatives from the American Society of Corporate Secretaries to discuss matters of mutual interest. For further information, please contact Patrick Daugherty at (202) 272-3077.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ida Wurczinger at (202) 272-2014.

Shirley E. Hollis,

Assistant Secretary.

January 7, 1987.

[FR Doc. 87-727 Filed 1-8-87; 4:39 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 52, No. 8
Tuesday, January 13, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Intergovernmental Review of Agency Programs and Activities

Correction

In notice document 86-29432 beginning on page 161 in the issue of Friday, January 2, 1987, make the following corrections:

1. On page 162, in the second column, entry "13.240"should read "13.246".
2. On page 162, in the third column, entry "13.292" should read "13.392" and "(OHS)" should read "(PHS)".
3. On page 162, in the third column, insert "13.623 Runaway Youth (HDS)" after entry "13.600".
4. On page 162, in the third column, insert "13.670 Child Abuse & Neglect Discretionary Activities (HDS)" after entry "13.669".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 905

[Docket No. R-86-1122; FR-1808]

Indian Preference

Correction

In rule document 86-27198 beginning on page 43734 in the issue of Thursday, December 4, 1986, make the following corrections:

§ 905.204 [Corrected]

On page 43739, in § 905.204(c)(3), in the third column, the second and third paragraphs under (3) should be designated (ii) and (iii), respectively.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Cow Creek Band of Umpqua Tribe Reservation, OR

Correction

In notice document 86-25517 beginning on page 41159 in the issue of Thursday, November 13, 1986, make the following corrections:

1. On page 41159, in the third column, under *Parcel 1*, in the third paragraph, the sixth line from the bottom should read: "beginning point North 0°31' West 247".
2. On page 41160, in the first column, in the first complete paragraph, the 10th line from the bottom should read: "Highway; thence South 28°53' East".
3. On the same page, in the second column, under *Parcel 3*, in the first paragraph, the third line should read: "Highway at a point which is North 30°33' West 280.1".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-010-07-4212-11; I-23085]

Realty Action: Boise County, ID

Correction

In notice document 86-29410 beginning on page 172 in the issue of Friday, January 2, 1987, make the following correction:

On page 172, in the third column, under **FOR FURTHER INFORMATION CONTACT**, in the fifth line, the phone number should read "334-1582".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Rule on the Submission and Management of Records and Documents Related to the Licensing of a Geologic Repository for the Disposal of High-Level Radioactive Waste; Intent To Form an Advisory Committee for Negotiated Rulemaking

Correction

In proposed rule document 86-28400 beginning on page 45338 in the issue of Thursday, December 18, 1986, make the following corrections:

1. On page 45339, in the third column, in the first complete paragraph, in the last line, "ISS." should read "LSS.".
2. On page 45342, in the first column, in item number *8.*., in the sixth line, "of" should read "at".
3. On the same page, in the same column, in the same item number, the ninth line should read "activities are not being carried out in the".
4. On the same page, in the same column, in the same item number, in the 16th line, "directed" was misspelled.

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Domestic Licensing of Production and Utilization Facilities; Minor Corrective Amendment

Correction

In rule document 86-29170 beginning on page 47206 in the issue of Wednesday, December 31, 1986, make the following correction:

§ 50.54 [Corrected]

On page 47206, in § 50.54, in the third column, the first paragraph designation should be "(p)(1)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8117]

Deposit of Estimated Income Tax by Certain Private Foundations and Tax-Exempt Organizations

Correction

In rule document 86-28935 beginning on page 46619 in the issue of Wednesday, December 24, 1986, make the following correction:

§ 602.101 [Corrected]

On page 46620, in the third column, in the amendatory instruction, in Par 4, in the last line, "§ 6302-1" should read "§ 1.6302-1".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[INTL-88-86]

Withholding Upon Dispositions of U.S. Real Property Interests by Publicly Traded Partnerships, Publicly Traded Trusts and Real Estate Investment Trusts

Correction

In proposed rule document 86-28510 beginning on page 46688 in the issue of Wednesday, December 24, 1986, make the following corrections:

1. On page 46689, in the first column under **Regulatory Flexibility Act and Executive Order 12291**, in the seventh line from the bottom of the paragraph, "the" should read "are".

2. On the same page, in the second column, under **List of Subjects**, the first line should read: *26 CFR 1.1441-1 through 1.1465-1.*

BILLING CODE 1505-01-D

federal register

Tuesday
January 13, 1987

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71 Establishment of Airport Radar Service Area; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWA-36]

Establishment of Airport Radar Service Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates an Airport Radar Service Area (ARSA) at William P. Hobby Airport, Houston, TX. This location is a public airport with an operating control tower served by a Level V radar approach control. Establishment of this ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operatioins Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basic. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 67 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which are included in the TRSA replacement program. The task group recommended that this criteria consider—among other things—traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. Accordingly, criteria were developed and have been adopted in FAA directives. On September 11, 1986 (51 FR 32410) the FAA proposed to establish an ARSA at William P. Hobby Airport under the guidelines of the new criteria.

This rule designates an ARSA at this airport. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held informal airspace meetings on the proposed ARSA for this airport.

Discussion of Comments

The FAA has received comments on the basic ARSA program as well as comments directed toward the proposed individual designation. Additionally, several of the comments on individual designation are common or speak to the basic program itself. Discussion of the comments is divided into two sections. The first addresses common and ARSA program comments, the second addresses comments on the proposal at William P. Hobby Airport.

ARSA Program Comments

Aircraft Owners and Pilots Association (AOPA) and others commented that, notwithstanding the statement by the FAA in the Regulatory Evaluation contained in the notice, increased air traffic controller personnel and equipment would be needed to handle the increased traffic expected due to the mandatory provisions of the ARSA. FAA's experience with the current ARSA's has been that while there is an increase in the amount of traffic being handled by controllers, this increase is significantly offset by the reduction in the amount of control instructions that must be issued under ARSA procedures as compared to TRSA procedures. However, the FAA recognizes that the potential exists for a need to establish additional controller positions at some facilities due to increased workload should the expected efficiency improvements in handling traffic not fully offset the increased number of aircraft handled. Further, FAA does not expect to incur additional equipment costs in implementing the ARSA program. In some instances, previously adopted plans to replace or modify older existing equipment may be rescheduled to accommodate the ARSA program. However, no new equipment is expected to be required as a result of the ARSA program.

Several commenters, including AOPA, disagreed with the FAA's conclusion that the additional air traffic could be accommodated with existing manpower at locations where TRSA participation was low. The FAA's conclusion for the total program was in part based upon the fact that participation in the existing TRSA's was quite high and, therefore, an increase from the present levels to 100% would not be a significant change. The commenters, while not agreeing with this conclusion, claimed that the FAA's rationale did not apply where participation was low and thus additional manpower would be needed at these locations if ARSA was designated. The FAA recognizes that participation in the TRSA program is relatively low at some of the candidate locations. However, this is in large part due to the controllers' walkout of 1981 and the subsequent reduction in fully qualified controllers which led to the discontinuance of TRSA services. A sufficient number of controllers is assigned at the facilities to which the commenters refer and those facilities are ready to provide the service to the increased number of pilots. This factor was considered by the FAA in its initial evaluation of the ARSA program.

The Soaring Society of America (SSA) objected to the ARSA program because it does not provide the same level of safety and service to all classes of aviation. As with other regulations, this rule affects different operators in different ways depending on their respective need to operate in controlled airspace or near the airports involved. The FAA does not agree that this variation in impact is reason not to adopt a rule which benefits the majority of users.

AOPA and others claim the FAA is changing the criteria that an operating control tower is the only requirement for an airport to be eligible for an ARSA. The FAA has not departed from the NAR criteria which would replace TRSA with ARSA at airports with an operating control tower served by a level III, IV, or V Radar Approach Control Facility and, as stated above, allow establishment of an ARSA at airports without TRSA which meet specific numerical criteria.

The SSA claimed that the ARSA rule should state that the ultimate responsibility for separation from other aircraft operating in visual flight rule (VFR) conditions rests with the pilot. While the FAA agrees that such is the case, the agency does not agree that the ARSA rule must so state. Unless a new or amending provision to the Federal Aviation Regulations (FAR) specifically deletes, amends, or supersedes existing sections, the existing regulations still apply. The ARSA rule (50 FR 9252, 9257, March 6, 1985) did not alter the sections of the FAR that establish that level of responsibility.

AOPA faulted the FAA's implementation of the ARSA program. The FAA stated in the proposal that the benefits of standardization and simplicity were nonquantifiable, and that the safety benefits anticipated by the FAA were not attributable to any given candidate but were based upon implementation of the program on a national basis. According to AOPA this evidenced the need to further evaluate the program at the current locations so that benefits could be individually assessed and each candidate evaluated accordingly. The FAA does not agree. The benefits of standardization and simplicity would always be nonquantifiable regardless of the amount of evaluation, yet they received considerable emphasis by the NAR Task Group. Overall national midair collision accident rates are relatively low, and accident rates within individual categories of airspace are lower still. Additionally, accidents at specific locations are random occurrences. Therefore, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Additionally, the FAA does not believe that these considerations should be cause for delaying a program that was recommended by a majority of the members of the National Airspace Review, and which has already produced positive results at most of the designated locations.

Numerous commenters also objected to the proposals based upon their belief that the volume of air traffic in several of the proposed locations was too great for the ARSA program. The FAA believes that such a point argues strongly for the establishment of an ARSA rather than the converse.

Some commenters, including AOPA, predicted that user costs incurred due to delays will be greater than was estimated by the FAA, and that these costs will be experienced more at some sites than at others. In the NPRM, FAA acknowledged that initial delay problems would vary from site to site, that at some facilities the transition process is expected to go very smoothly, and that at other sites delay problems will dominate the initial adjustment period. Any delay that may result is expected to be transitory in nature in that actual delays will be reduced as pilots and controllers become experienced with ARSA procedures. This has been the case at the three locations where ARSA has been in effect for an appreciable period, and is the trend at those locations more recently designated.

Several comments claimed that some aircraft would have to purchase two-way radios in order to enter the ARSA and land at or depart from airports within the ARSA. The FAA does not agree. Each primary airport receiving ARSA designation has an airport traffic area requiring two-way radio communications at present. Therefore, no additional cost will be incurred for purchase of radios for aircraft landing at or departing from primary airports receiving ARSA designation.

Further, some commenters, including AOPA, expressed concern that older 360 channel transceivers would not be adequate to operate within an ARSA. Frequencies compatible with 360 channel transceivers are available at all ARSA locations. Therefore, operators of 360 channel equipment will not need to install new radios to operate within an ARSA.

AOPA and other commenters stated that the proposed ARSA's would derogate rather than improve safety, as a result of increased frequency congestion, pilots concentrating on their instruments and placing too much reliance upon ATC rather than "see and avoid," and the compression of air traffic into narrow corridors as pilots elect to circumnavigate an ARSA rather than receive ARSA services. In addition to increasing the risk of aircraft collision, the commenters claimed that compression would increase the impact of aircraft noise on underlying communities and cause aircraft to be flown closer to obstructions.

As indicated above, while an increased number of aircraft will be using radio frequencies, the amount of "frequency time" needed for each aircraft is reduced in an ARSA compared to the current TRSA. This has been the experience of the FAA at the current ARSA facilities.

AOPA claims that since the communications and readback procedures in ARSA's do not differ from those utilized in TRSA's that there would be no reduction in "frequency time" needed for each pilot to acknowledge instructions or information, and thus, the partial offset indicated by the FAA was not justified. The offset is based upon fewer as well as shorter transmissions for each pilot, thus the FAA does not agree with this claim.

The FAA evaluated the flow of air traffic around the Austin, TX, and Columbus, OH, ARSA's during the confirmation period to determine if compression was occurring. This evaluation was performed by observing the radar at Austin, TX, and by both radar observations and the use of extracted computer data at Columbus, OH. Following the designation of an ARSA at Baltimore/Washington International Airport (BWI), the FAA evaluated the flow of air traffic there for a period of 90 days by observing the radar and extracting computer data to determine if compression was occurring. Additionally, the FAA has continually monitored for the possibility of compression at all recently designated locations. Compression has not been detected at any of these locations. However, compression of air traffic is a site-specific effect that could occur at a particular location regardless of its absence elsewhere. Thus, although the FAA does not believe compression of traffic will occur at any of the proposed airports, the agency will continue to monitor each designated ARSA and make adjustments if necessary.

AOPA and other commenters claimed that the FAA provided no demonstrable evidence that the ARSA program would improve aviation safety. The FAA continues to believe the implementation of the ARSA program will enhance aviation safety. The program requires two-way radio communication between ATC and all pilots within the designated areas. Air traffic controllers will thus be in a much improved position to issue complete traffic information to the pilots involved, and thus, safety will be improved.

AOPA, and several commenters, requested that VFR corridors be established at several of the subject locations along routes that are currently contained within an airport traffic area (ATA). The NAR Task Group noted in their evaluation of the TRSA program that under FAR § 91.87 pilots operating under VFR to or from a satellite airport within an ATA are excluded from the two-way radio communication requirement. The Task Group noted that this was acceptable until the volume of air traffic at the primary airport dictated the installation of radar approach control. The Task Group recommended, and the FAA adopted, the ARSA program as a safety improvement addressing this problem. Thus, the FAA does not believe provisions for VFR corridors that penetrate an ATA in most cases are warranted or in keeping with that recommendation.

One commenter claimed that the grouping of ARSA's such as that adopted in the Sacramento Valley area would create "squeezing" of traffic in the corridors between the blocks of ARSA airspace. One area in question, between Sacramento and Beale Air Force Base (AFB), is approximately 20 miles wide. The FAA does not agree that "squeezing" will occur in this area. Additionally, other user organizations have requested VFR corridors between adjacent or grouped ARSA's and these ARSA's have been modified to accommodate this request.

AOPA and others commented that several of the proposals will require pilots to violate FAR 91.79 (14 CFR 91.79) regarding minimum safe altitudes. The section states in part, "Except when necessary for takeoff or landing, no person may operate an aircraft below . . . an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft [when over any congested area of a city, town, or settlement, or over any open air assembly of persons]." The commenters claim that the 1,200-foot base altitude of the 5- to 10-mile portion of the ARSA will force pilots to violate FAR 91.79 where obstacles extend more than 200 feet above the ground. There are two alternatives available to pilots in such a situation which permit compliance with the regulation. Namely, pilots may participate in ARSA services and thus not be limited to the 1,200-foot base, and secondly, a pilot may deviate 2,000 feet horizontally from the obstacle.

Furthermore, AOPA claims that the above response does not adequately respond to the issue. They claim that deviations of 2,000 feet horizontally would increase workload and reduce the efficiency of see-and-avoid, and thus, potentially reduce safety. The FAA does not encourage deviation but encourages participation which will not require deviation and will result in controllers providing radar assistance for see-and-avoid.

Several commenters noted that the proposal did not contain an environmental assessment. Under existing environmental regulations the proposed establishment of a Terminal Control Area (TCA) or a TRSA does not require an environmental assessment. The agency environmental regulations have not yet been amended to reflect ARSA procedures. However, because the potential environmental impact and regulatory effects of ARSA designation fall between those of the TCA and TRSA designations, the FAA finds that no environmental assessment is required for an ARSA designation.

AOPA and other commenters indicated that the FAA had failed to demonstrate a need for the ARSA program itself, as well as a need for several of the individual proposed locations. Additionally, comments were received that faulted some of the features of the ARSA. Most of these comments went beyond the scope of the subject proposal and were addressed when the FAA adopted the recommendation of National Airspace Review (NAR) Task Group 1-2.2 (50 FR 9252, March 6, 1985). However, the FAA believes the need for the ARSA program was adequately demonstrated by the task group that reviewed the TRSA program and recommended the ARSA as the former's replacement. The task group faulted the TRSA program in several of its aspects and through consensus agreement determined the preferred features of the ARSA prior to making their recommendation to the FAA. Justification for the ARSA program has been the subject of previous FAA rulemaking, and the program was adopted after consideration of public comment. Response to comments on ARSA's at particular locations is made below.

AOPA, EAA, and others commented that several of the proposed ARSA's failed to meet the criteria for designation. The traffic count and passenger enplanements at William P. Hobby Airport not only meet all of the quantitative criteria for an ARSA but in fact qualify the airport for candidacy for a TCA. In keeping with FAA policy of regulating with the least impact on the public, the FAA, at this time, does not intend to propose a TCA for William P. Hobby Airport. However, the FAA may propose other regulatory airspace actions for this airport if future conditions justify such action. The FAA now proposes to establish an ARSA at William P. Hobby Airport under the guidelines of established criteria.

Several commenters suggested the top of the ARSA be lowered from 4,000 feet above field elevation. Absent strong justification for lowering this altitude, the FAA has not adopted these recommendations. The agency's rationale for nonadoption is set forth immediately above.

Several commenters, including AOPA and EAA, indicated that at several of the proposed ARSA's, the present system was working quite well and that there was no need to change something that was working. The FAA acknowledges that TRSA's are functional and beneficial, to a point. However, the NAR Task Group did not fault individual TRSA locations but the program itself and recommended its replacement. The FAA concurred with that assessment and has determined that the ARSA program is an improvement over the TRSA program from the standpoints of both safety and service. Thus, the quality of service being provided at TRSA locations should not constitute a road block to improvement.

Several commenters claimed the reduced separation standards of the ARSA program would derogate rather than enhance safety. The elimination of the Stage III separation requirements was recommended by users, all of whom are vitally interested in aviation safety, and adopted by the FAA. This aspect of the ARSA program received considerable FAA attention during the confirmation period at Austin, TX, and Columbus, OH. The FAA agrees with the task group that the Stage III separation standards are not needed for safety in a mandatory participation area.

Several commenters requested that the ARSA be described in statute rather than nautical miles. Numerous user organizations and the NAR itself have recommended that the FAA adopt nautical-mile descriptions rather than statute. It is the intention of the FAA to establish all new descriptions according to that recommendation.

Several commenters objected to proposals where the ARSA was in proximity to other airports. According to these commenters pilots would not know whether they should be in contact with the ARSA approach control facility or in contact with the control tower at the secondary airport, or on unicom. The FAA does not view this situation as different from that existing at many of

these locations today. Through pilot education programs and experience with ARSA procedures this situation will improve. Also, as at present, when a pilot contacts the wrong FAA facility the controllers will give appropriate instructions.

AOPA, and other commenters objected to several of the proposed ARSA's based upon the claim that the FAA had failed to evaluate the cumulative effect of the proposed ARSA's and other regulatory airspace. The evaluation for each ARSA included all factors known to the FAA, including the proximity of other regulatory airspace.

Underlying a great many of the comments received was the idea that some provision should be made so that pilots could continue their current practices without contacting the responsible ATC facility. While the FAA has made modifications from the standard ARSA in cases where circumstances warrant, the basic thrust of the ARSA program is to require two-way communication with the responsible approach control facility, and not to make modifications in the program to provide for nonparticipation.

Information on ARSA's following the establishment of a new site will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and, therefore, will not involve additional costs strictly as a result of the ARSA program.

Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

SSA faulted the FAA for using the aviation safety seminars for pilot education on ARSA's. They claim these seminars do not reach many pilots and the seminars are reserved during this year for the FAA "Back to Basics" program. The FAA does not agree. The aviation safety seminars are for all pilots and for education on all aspects of aviation which would include the ARSA program.

SSA commented that the FAA should take into consideration the unique operating characteristics of gliders in defining the ARSA airspace at some locations. The FAA has modified the configurations of the ARSA at locations where glider operations would be adversely affected by a standard configuration.

Numerous commenters objected to the ARSA designations claiming they would simply provide the FAA with the basis for additional regulatory restrictions. The FAA does not believe this to be a valid objection. While the agency has no current plans for further regulatory action which imposes additional restrictions, such action if it should ever become a reality would be the subject of additional rulemaking and would of necessity be judged on its own merits, as should these proposals.

The Air Line Pilots Association (ALPA) concurred with the proposal as an improvement in operational efficiency and a significant contribution to a reduction of midair collision potential.

The Air Transport Association (ATA) endorsed the proposed designations as an improvement in safety with specific comments indicated below.

The General Aviation Manufacturers Association endorsed the ARSA's as an improvement in safety and concurred with the FAA's philosophy regarding some deviation from the standard model.

Comments were received which were supportive of each of the ARSA's as an improvement in aviation safety, and stating that participation by all pilots was only equitable and that normal safety concerns dictated mandatory two-way communications. The FAA agrees.

Specific Comments on William P. Hobby Airport, Houston, TX

One commenter stated that there would have been more comments and interest generated in the proposal if the Genoa Airport had not been omitted from the proposed ARSA graphic. The FAA recognizes that Genoa Airport was inadvertently omitted from the graphic. However, interested parties familiar with the area are well aware of the location of Genoa in the Hobby Airport Traffic Area (ATA) which is encompassed by the ARSA. Additionally, Genoa Airport was specifically referred to in the proposal as being in the ARSA.

Several commenters, including AOPA and the Genoa Airport operators, requested airspace modifications or other accommodations for relief from the ARSA for ingress and egress routes for Genoa Airport. As stated in the NPRM, for those NORDO aircraft based at Genoa Airport, the FAA can establish local procedures that will accommodate them. For those pilots of NORDO aircraft not based at Genoa but who wish to land there, a telephone number will be published in the Airport/Facility Directory to be used by those pilots to request approval to enter the ARSA. Radio equipped aircraft can enter the ARSA under published rules for operation in an ARSA. The FAA believes that maintaining the integrity of ATA's and ARSA's as much as possible is the more prudent approach in this case. The ARSA as proposed will ensure that Ellington Tower is at least aware of traffic routes to and from Genoa Airport which pass through the Ellington ATA. Furthermore, the number of based aircraft at Genoa Airport affected by the ARSA, of which only a part are NORDO, is very small. Additionally, the total number of operations at Genoa, as reported by the airport manager, is approximately 500 annually.

Some commenters claimed that the traffic at Genoa Airport is on the increase and future expansion plans for this airport warrant an airspace exclusion at this time. As stated above, the FAA does not agree that anything other than procedural agreements are warranted. However, the FAA will continue to monitor the traffic at Genoa and, if traffic increases as projected and further need is shown, or letters of procedure/agreement prove not workable, an airspace modification for the ARSA in the vicinity of Genoa Airport will be further considered.

Several commenters claimed that the traffic at Clover Field will be compressed below the ARSA and in dangerous proximity to an antenna which is located 11.2 miles southeast of Hobby Airport. These commenters also state the group of antennae located approximately 12 miles west of Hobby will pose a similar problem to aircraft operating west of Hobby. Both locations noted are outside regulatory airspace which should pose no more problem to aviation than is posed today. The FAA had previously issued a determination of no hazard on these antennae groups and the addition of nearby regulatory airspace will not change this determination. For these reasons, the FAA does not agree that raising the floor of the ARSA to accommodate these antennae is warranted.

AOPA and others claimed that the ARSA will conflict with established east-west VFR routes through the area. The FAA does not agree. These routes and suggested altitudes will not change but aircraft flying these routes will be offered the added safety of ARSA services for those pilots at the lower altitudes.

Several commenters claimed that the ARSA floor between 5 and 10 miles from

the airport should be raised from 1,500 feet MSL to an altitude of 2,500 feet MSL to provide terrain clearance from antennae and buildings under the 5- to 10-mile area. The FAA does not believe that a floor of 2,500 feet MSL in this area is warranted. The FAA will establish the floor of the ARSA at 1,500 feet MSL instead of 1,200 feet above ground level (AGL) to accommodate numerous areas of large buildings and minor terrain variations.

The ATA generally concurred with the FAA proposal. However, ATA claimed that the floor of the ARSA between the 042° bearing clockwise to the 313° bearing should be lowered to 1,200 feet AGL instead of 1,500 feet MSL. The difference is approximately 250 feet which the FAA feels should be made available to nonparticipating aircraft. As stated above, the FAA will establish the floor of the ARSA in this area at 1,500 feet MSL.

SSA stated that they are not aware of any glider operations in close proximity to the proposed Houston Hobby ARSA. However, SSA states that soaring clubs operate from Katy Airport and Hempstead Airport and, although their training areas will not be impacted by the ARSA, requests that the FAA work with both soaring clubs to ensure minimum impact on cross country flights. Additionally, SSA requests assurance that, should any glider operators wish to locate in an area tangential to the ARSA, the local FAA personnel work closely with them to ensure a safe operation for all concerned. As stated above, the FAA will continue to cooperate with local glider operators and operations to ensure safety with the minimum impact on both operations.

Other comments were received which were general in nature and were discussed under general comments.

Other Comments

A number of other comments were received addressing matters beyond the scope of these proposals such as charting, the number of frequencies depicted on a chart, the general design features of an ARSA, etc. The FAA will give consideration to all of the points raised in these comments but will not address them as a part of this rulemaking.

Regulatory Evaluation

Those comments that addressed information presented in the Regulatory Evaluation of the notice have been discussed above. The Regulatory Evaluation of the notice, as clarified by the "Discussion of Comments" contained in the preamble to the final rule, constitutes the Regulatory Evaluation of the final rule. Both documents have been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with the simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of *both* the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will dominate the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the ARSA site established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without any additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of this ARSA site will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA site established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, The FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-base operators, flight schools, argricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding many satellite airports located within the 5-mile ring to avoid adversely impacting their operations, and in other cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports that potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as, soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates an Airport Radar Service Area (ARSA) at William P. Hobby Airport, Houston, TX. The location designated is a public airport with an operating control tower served by a Level V radar approach control. Establishment of this ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in terminal areas and

promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport Radar Service Areas.

Adoption of The Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.501 [Amended]

2. § 71.501 is amended as follows:

William P. Hobby Airport, Houston, TX [New]

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of William P. Hobby Airport (lat. 29° 38'43"N., long. 95°16'43"W.); and that airspace extending upward from 1,500 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport from the 042° bearing from the airport clockwise to the 313° bearing from the airport, and that airspace extending upward from 1,800 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport from the 313° bearing from the airport clockwise to the 042° bearing from the airport, excluding that airspace north of an east-west line drawn from the 10-mile point on the 313° bearing from the airport direct to the 10-mile point on the 042° bearing from the airport.

Issued in Washington, DC, on January 8, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–728 Filed 1–12–87; 8:45 am]

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Federal Register

Tuesday
January 13, 1987

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Area; Final Rule

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Airspace Docket No. 86-AWA-37]

Establishment of Airport Radar Service Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates an Airport Radar Service Area (ARSA) at Charleston AFB/International Airport, SC. The location designated is a joint use public and military airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of this ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 67 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

On August 18, 1986, the FAA proposed to designate an ARSA at Charleston AFB/International Airport, SC (51 FR 29534). This rule designates an ARSA at this airport. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held informal airspace meetings for this proposed airport.

Discussion of Comments

The FAA has received comments on the basic ARSA program as well as comments directed toward the proposed individual designation. Additionally, several of the comments on individual designation are common or speak to the basic program itself. Discussion of the comments is divided into two sections. The first addresses common and ARSA program comments, the second addresses comments on the proposal at Charleston AFB/International Airport.

ARSA Program Comments

Aircraft Owners and Pilots Association (AOPA) and others commented that, notwithstanding the statement by the FAA in the Regulatory Evaluation contained in the notice, increased air traffic controller personnel and equipment would be needed to handle the increased traffic expected due to the mandatory provisions of the ARSA. FAA's experience with the current ARSA's has been that while there is an increase in the amount of traffic being handled by controllers, this increase is significantly offset by the reduction in the amount of control instructions that must be issued under ARSA procedures as compared to TRSA procedures. However, the FAA recognizes that the potential exists for a need to establish additional controller positions at some facilities due to increased workload should the expected efficiency improvements in handling traffic not fully offset the increased number of aircraft handled. Further, FAA does not expect to incur additional equipment costs in implementing the ARSA program. In some instances, previously adopted plans to replace or modify older existing equipment may be rescheduled to accommodate the ARSA program. However, no new equipment is expected to be required as a result of the ARSA program.

Several commenters, including AOPA, disagreed with the FAA's conclusion that the additional air traffic could be accommodated with existing manpower at locations where TRSA participation was low. The FAA's conclusion for the total program was in part based upon the fact that participation in the existing TRSA's was quite high and, therefore, an increase from the present levels to 100% would not be a significant change. The commenters, while not agreeing with this conclusion, claimed that the FAA's rationale did not apply where participation was low and thus additional manpower would be needed at these locations if ARSA was designated. The FAA recognizes that participation in the TRSA program is relatively low at some of the candidate locations. However, this is in large part due to the controllers' walkout of 1981 and the subsequent reduction in fully qualified controllers which led to the discontinuance of TRSA services. A sufficient number of controllers is assigned at the facilities to which the commenters refer and those facilities are ready to provide the service to the increased number of pilots. This factor was considered by the FAA in its initial evaluation of the ARSA program.

The Soaring Society of America (SSA) objected to the ARSA program because it does not provide the same level of safety and service to all classes of aviation. As with other regulations, this rule affects different operators in different ways depending on their respective need to operate in controlled airspace or near the airports involved. The FAA does not agree that this variation in impact is reason not to adopt a rule which benefits the majority of users.

AOPA and other claim the FAA is changing the criteria that an operating control tower is the only requirement for an airport to be eligible for an ARSA. The FAA has not departed from the NAR criteria which would replace TRSA with ARSA at airports with an operating control tower served by a Level III, IV, or V radar approach control facility.

The SSA claimed that the ARSA rule should state that the ultimate responsibility for separation from other aircraft operating in visual flight rule (VFR) conditions rests with the pilot. While the FAA agrees that such is the case, the agency does not agree that the ARSA rule must so state. Unless a new or amending provision to the Federal Aviation Regulations (FAR) specifically

deletes, amends, or supersedes existing sections, the existing regulations still apply. The ARSA rule (50 FR 9252, 9257, March 6, 1985) did not alter the sections of the FAR that establish that level of responsibility.

AOPA faulted the FAA's implementation of the ARSA program. The FAA stated in the proposal that the benefits of standardization and simplicity were nonquantifiable, and that the safety benefits anticipated by the FAA were not attributable to any given candidate but were based upon implementation of the program on a national basis. According to AOPA this evidenced the need to further evaluate the program at the current locations so that benefits could be individually assessed and each candidate evaluated accordingly. The FAA does not agree. The benefits of standardization and simplicity would always be nonquantifiable regardless of the amount of evaluation, yet they received considerable emphasis by the NAR Task Group. Overall national midair collision accident rates are relatively low, and accident rates within individual categories of airspace are lower still. Additionally, accidents at specific locations are random occurrences. Therefore, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Additionally, the FAA does not believe that these considerations should be cause for delaying a program that was recommended by a majority of the members of the National Airspace Review, and which has already produced positive results at most of the designated locations.

Numerous commenters also objected to the proposals based upon their belief that the volume of air traffic in several of the proposed locations was too great for the ARSA program. The FAA believes that such a point argues strongly for the establishment of an ARSA rather than the converse.

Some commenters, including AOPA, predicted that user costs incurred due to delays will be greater than was estimated by the FAA, and that these costs will be experienced more at some sites than at others. In the NPRM, FAA acknowledged that initial delay problems would vary from site to site, that estimates of delays were quite preliminary, that at some facilities the transition process is expected to go very smoothly, and that at other sites delay problems will dominate the initial adjustment period. These cost estimates are expected to be transitory in nature in that actual delays will be reduced as pilots and controllers become experienced with ARSA procedures. This has been the case at the three locations where ARSA has been in effect for an appreciable period, and is the trend at those locations more recently designated.

Several comments claimed that some aircraft would have to purchase two-way radios in order to enter the ARSA and land at or depart from airports within the ARSA. The FAA does not agree. Each primary airport receiving ARSA designation has an airport traffic area requiring two-way radio communications at present. Therefore, no additional cost will be incurred for purchase of radios for aircraft landing at or departing from primary airports receiving ARSA designation.

Further, some commenters, including AOPA, expressed concern that older 360 channel transceivers would not be adequate to operate within an ARSA. Frequencies compatible with 360 channel transceivers are available at all ARSA locations. Therefore, operators of 360 channel equipment will not need to install new radios to operate within an ARSA.

AOPA and other commenters stated that the proposed ARSA's would derogate rather than improve safety, as a result of increased frequency congestion, pilots concentrating on their instruments and placing too much reliance upon ATC rather than "see and avoid," and the compression of air traffic into narrow corridors as pilots elect to circumnavigate an ARSA rather than receive ARSA services. In addition to increasing the risk of aircraft collision, the commenters claimed that compression would increase the impact of aircraft noise on underlying communities and cause aircraft to be flown closer to obstructions.

As indicated above, while an increased number of aircraft will be using radio frequencies, the amount of "frequency time" needed for each aircraft is reduced in an ARSA compared to the current TRSA. This has been the experience of the FAA at the current ARSA facilities.

AOPA claims that since the communications and readback procedures in ARSA's do not differ from those utilized in TRSA's there would be no reduction in "frequency time" needed for each pilot to acknowledge instructions or information, and thus, the partial offset indicated by the FAA was not justified. The offset is based upon fewer as well as shorter transmissions for each pilot, thus the FAA does not agree with this claim.

The FAA evaluated the flow of air traffic around the Austin, TX, and Columbus, OH, ARSA's during the confirmation period to determine if compression was occurring. This evaluation was performed by observing the radar at Austin, TX, and by both radar observations and the use of extracted computer data at Columbus, OH. Following the designation of an ARSA at Baltimore/Washington International Airport (BWI), the FAA evaluated the flow of air traffic there for a period of 90 days by observing the radar and extracting computer data to determine if compression was occurring. Additionally, the FAA has continually monitored for the possibility of compression at all recently designated locations. Compression has not been detected at any of these locations. However, compression of air traffic is a site-specific effect that could occur at a particular location regardless of its absence elsewhere. Thus, although the FAA does not believe compression of traffic will occur at any of the proposed airports, the agency will continue to monitor each designated ARSA and make adjustments if necessary.

AOPA, and other commenters claimed that the FAA provided no demonstrable evidence that the ARSA program would improve aviation safety. The FAA continues to believe the implementation of the ARSA program will enhance aviation safety. The program requires two-way radio communication between ATC and all pilots within the designated areas. Air traffic controllers will thus be in a much improved position to issue complete traffic information to the pilots involved, and thus, safety will be improved.

AOPA, and several other commenters, requested that VFR corridors be established at several of the subject locations along routes that are currently contained within an airport traffic area (ATA). The NAR Task Group noted in their evaluation of the TRSA program that under FAR § 91.87 pilots operating under VFR to or from a satellite airport within an ATA are excluded from the two-way radio communications requirement. The Task Group noted that this was acceptable until the volume of air traffic at the primary airport dictated the installation of a radar approach control. The Task Group recommended, and the FAA adopted, the ARSA program as a safety improvement addressing this problem. Thus, the FAA does not believe provisions for VFR corridors that penetrate an ATA in most cases are warranted or in keeping with that recommendation.

One commenter claimed that the grouping of ARSA's such as that adopted in the Sacramento Valley area would create "squeezing" of traffic in the corridors between the blocks of ARSA airspace. One area in question, between Sacramento and Beale Air Force Base (AFB), is approximately 20 miles wide. The FAA does not agree that "squeezing" will occur in this area. Additionally, other user organizations have requested VFR corridors between adjacent or grouped ARSA's and these ARSA's have been modified to accommodate this request.

AOPA and others commented that several of the proposals will require pilots to violate FAR 91.79 (14 CFR 91.79) regarding minimum safe altitudes. The section states in part, "Except when necessary for takeoff or landing, no person may operate an aircraft below . . . an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft [when over any congested area of a city, town, or settlement, or over any open air assembly or persons]." The commenters claim that the 1,200-foot base altitude of the 5- to 10-mile portion of the ARSA will force pilots to violate FAR § 91.79 where obstacles extend more than 200 feet above the ground. There are two alternatives available to pilots in such a situation which permit compliance with the regulation. Namely, pilots may participate in ARSA services and thus not be limited to the 1,200-foot base, and secondly, a pilot may deviate 2,000 feet horizontally from the obstacle.

Furthermore, AOPA claims that the above response does not adequately respond to the issue. They claim that deviations of 2,000 feet horizontally would increase workload and reduce the efficiency of see-and-avoid, and thus, potentially reduce safety. The FAA does not encourage deviation but encourages participation which will not require deviation and will result in controllers providing radar assistance for see-and-avoid.

Several commenters noted that the proposal did not contain an environmental assessment. Under existing environmental regulations the proposed establishment of a Terminal Control Area (TCA) or a TRSA does not require an environmental assessment. The agency environmental regulations have not yet been amended to reflect ARSA procedures. However, because the potential environmental impact and regulatory effects of ARSA designation fall between those of the TCA and TRSA designations, the FAA finds that no environmental assessment is required for an ARSA designation.

AOPA, the Experimental Aircraft Association (EAA), and other commenters indicated that the FAA had failed to demonstrate a need for the ARSA program itself, as well as a need for several of the individual proposed locations. Additionally, comments were received that faulted some of the features of the ARSA. Most of these comments went beyond the scope of the subject proposal and were addressed when the FAA adopted the recommendation of National Airspace Review (NAR) Task Group 1-2.2 (50 FR 9252, March 6, 1985). However, the FAA believes the need for the ARSA program was adequately demonstrated by the task group that reviewed the TRSA program and recommended the ARSA as the former's replacement. The task group faulted the TRSA program in several of its aspects and through consensus agreement determined the preferred features of the ARSA prior to making their recommendation to the FAA. Justification for the ARSA program has been the subject of previous FAA rulemaking, and the program was adopted after consideration of public comment. Response to comments on ARSA's at particular locations is made below.

AOPA, EAA, and others commented that several of the proposed ARSA's failed to meet the criteria for designation. The criteria for this airport was recommended by the NAR Task Group and adopted by the FAA. Namely, ". . . excluding TCA locations, all airports with an operational airport traffic control tower and currently contained within a TRSA serviced by a Level III, IV, or V radar approach control facility shall have [an ARSA] designated; unless a study indicates that such designation is inappropriate for a particular location." (49 FR 47184, November 30, 1984).

Several commenters suggested the top of the ARSA be lowered from 4,000 feet above field elevation. Absent strong justification for lowering this altitude, the FAA has not adopted these recommendations. The agency's rationale for nonadoption is set forth immediately above.

Several commenters, including AOPA and FAA, indicated that at several of the proposed ARSA's the TRSA was working quite well and that there was no need to change something that was working. The FAA acknowledges that TRSA's are functional and beneficial, to a point. However, the NAR Task Group did not fault individual TRSA locations but the TRSA program itself and recommended its replacement. The FAA concurred with that assessment and has determined that the ARSA program is an improvement over the TRSA program from the standpoints of both safety and service. Thus, the quality of service being provided at TRSA locations should not constitute a roadblock to improvement.

Several commenters claimed the reduced separation standards of the ARSA program would derogate rather than enhance safety. The elimination of the Stage III separation requirements was recommended by users, all of whom are vitally interested in aviation safety, and adopted by the FAA. This aspect of the ARSA program received considerable FAA attention during the confirmation period at Austin, TX, and Columbus, OH. The FAA agrees with the task group that the Stage III separation standards are not needed for safety in a mandatory participation area.

Several commenters requested that the ARSA be described in statute rather than nautical miles. Numerous user organizations and the NAR itself have recommended that the FAA adopt nautical-mile descriptions rather than statute. It is the intention of the FAA to establish all new descriptions according to that recommendation.

Several commenters objected to proposals where the ARSA was in proximity to other airports. According to these commenters pilots would not know whether they should be in contact with the ARSA approach control facility or in contact with the control tower at the secondary airport, or on unicom. The FAA does not view this situation as different from that existing at many of these locations today. Through pilot education programs and experience with ARSA procedures this situation will improve. Also, as at present, when a pilot contacts the wrong FAA facility the controllers will give appropriate instructions.

AOPA, and other commenters objected to several of the proposed ARSA's based upon the claim that the FAA had failed to evaluate the cumulative effect of the proposed ARSA's and other regulatory airspace. The evaluation for each ARSA included all factors known to the FAA, including the proximity of other regulatory airspace.

Underlying a great many of the comments received was the idea that some provisions should be made so that pilots could continue their current practices without contacting the responsible ATC facility. While the FAA has made modifications from the standard ARSA in cases where circumstances warrant, the basic thrust

of the ARSA program is to require two-way communication with the responsible approach control facility, and not to make modifications in the program to provide for nonparticipation.

Information on ARSA's following the establishment of a new site will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and, therefore, will not involve additional costs strictly as a result of the ARSA program.

Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

SSA faulted the FAA for using the aviation safety seminars for pilot education on ARSA's. They claim these seminars do not reach many pilots and the seminars are reserved during this year for the FAA "Back to Basics" program. The FAA does not agree. The aviation safety seminars are for all pilots and for education on all aspects of aviation which would include the ARSA program.

SSA commented that the FAA should take into consideration the unique operating characteristics of gliders in defining the ARSA airspace at some locations. The FAA has modified the configurations of the ARSA at locations where glider operations would be adversely affected by a standard configuration.

Numerous commenters objected to the ARSA designations claiming they would simply provide the FAA with the basis for additional regulatory restrictions. The FAA does not believe this to be a valid objection. While the agency has no current plans for further regulatory action which imposes additional restrictions, such action if it should ever become a reality would be the subject of additional rulemaking and would of necessity be judged on its own merits, as should these proposals.

The Air Line Pilots Association (ALPA) concurred with the proposal as an improvement in operational efficiency and a significant contribution to a reduction of midair collision potential.

The Air Transport Association (ATA) endorsed the proposed designations as an improvement in safety with specific comments indicated below.

The General Aviation Manufacturers Association endorsed the ARSA's as an improvement in safety and concurred with the FAA's philosophy regarding some deviation from the standard model.

Comments were received which were supportive of each of the ARSA's addressed here as an improvement in aviation safety, and stating that participation by all pilots was only equitable and that normal safety concerns dictated mandatory two-way communications. The FAA agrees.

Comments on Charleston AFB/ International Airport, SC

AOPA claimed that the floor of the ARSA between five and ten miles from the airport will force aircraft to fly 300 feet lower than the TRSA. Although the floor of the ARSA is lower than that of the TRSA, as stated above, the aircraft need only participate in ARSA services to fly at or above the floor of the ARSA in these areas.

The SSA stated that they are not aware of any glider operations normally occurring in the Charleston area. However, they request that local FAA personnel work closely with glider operators who wish to enter the ARSA on long cross countries or who wish to establish local glider operations in the area. The FAA will continue to cooperate with local and cross country glider operators to ensure safety with the minimum impact on both operations.

The ATA responded in favor of the proposal at Charleston as an improvement in safety, especially in light of the mix of traffic with military aircraft.

Other comments were received which were general in nature and were discussed above.

Other Comments

A number of other comments were received addressing matters beyond the scope of these proposals such as charting, the number of frequencies depicted on a chart, the general design features of an ARSA, etc. The FAA will give consideration to all of the points raised in these comments but will not address them as a part of this rulemaking.

Regulatory Evaluation

Those comments that addressed information presented in the Regulatory Evaluation of the notice have been discussed above. The Regulatory Evaluation of the notice, as clarified by the "Discussion of Comments" contained in the preamble to the final rule, constitutes the Regulatory Evaluation of the final rule. Both documents have been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of *both* the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will dominate the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the ARSA site established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without any additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of this ARSA site will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as mush as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA site established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility

Determination was published in the NPRM. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within five miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding some satellite airports located within the five-mile ring to avoid adversely impacting their operations, and in other cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as, soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates an Airport Radar Service Area (ARSA) at Charleston AFB/International Airport, SC. The location designated is a joint use public and military airport at which nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of this ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Charleston AFB/International Airport, SC [New]

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of Charleston AFB/Internation Airport (lat. 23°55'55"., long. 80°02'27"W.); and that airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL within a 10-mile radius of Charleston AFB/International Airport.

Issued in Washington, DC, on January 8, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–729 Filed 1–12–87; 8:45 am]

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