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

GENERAL ACCOUNTING OFFICE

4 CFR Part 31

Claims Against the United States; General Procedure

AGENCY: General Accounting Office.

ACTION: Interim rule.

SUMMARY: This interim rule amends the provisions of the General Accounting Office's claims regulations concerning the Barring Act, 31 U.S.C. 3702(b), by allowing claims against the United States to be filed with the individual federal agencies. Under the prior regulations a claim must be filed with the General Accounting Office (GAO) to toll the 6-year statute of limitations established by the Act. This amendment provides that a claim is considered timely filed when it is filed either with GAO or with the agency whose activities gave rise to it within 6 years after it first accrues. Since this amendment relieves a restriction on the filing of claims, immediate implementation is desirable. We are therefore issuing it as an interim rule. After a 60-day comment period, we will consider the comments received and take them into account in developing a final rule.

This rule also makes editorial changes to update 4 CFR Part 31 and bring it into conformance with existing administrative practices of the General Accountng Office.

EFFECTIVE DATE: This interim rule is effective with respect to claims not barred by 31 U.S.C. 3702(b) as of June 15, 1989. Comments must be received by August 14, 1989.

ADDRESS: Comments should be addressed to: Robert L. Higgins, Associate General Counsel, U.S. General Accounting Office, Room 1830, 441 G Street NW Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Robert L. Higgins at FTS 275-6410 or commercial (202) 275-6410.

SUPPLEMENTARY INFORMATION: The so-called Barring Act, 31 U.S.C. 3702(b) (1982), provides that, with certain exceptions, a claim within the settlement jurisdiction of the General Accounting Office "must be received by the Comptroller General within 6 years after the claim accrues. Since enactment of the Barring Act in 1940, we have required that such claims be filed directly with GAO within the allowed 6 years. Therefore, claims filed with any agency other than GAO did not stop the running of the statute.

The fundamental purpose of a statute of limitations is to bar stale claims. It requires the assertion of claims before so much time has elapsed that evidence necessary to resolve the claim becomes difficult or impossible to obtain. We believe this purpose is served not only when a claim is filed with GAO within the required 6-year period, but also when it is filed with the agency in which the claim arose and which will initially adjudicate it.

Accordingly, GAO's claims regulations in 4 CFR Part 31 are being amended to provide that a claim, within GAO's settlement jurisdiction, which is received by the agency whose program or activity gave rise to the claim within the statutory 6-yer period, shall be treated as having been timely filed for purposes of the Barring Act. Agencies are urged to develop procedures to ensure that the date of receipt is clearly stamped on the claim to avoid disputes over the filing date.

Request for Comments

Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

List of Subjects in 4 CFR Part 31

Accounting, Claims, Filing procedures, General Accounting Office, Government employees, Military personnel.

For the reasons set forth in the preamble, 4 CFR Part 31 is amended as follows:

PART 31—CLAIMS AGAINST THE UNITED STATES; GENERAL PROCEDURE

1. The authority citation for Part 31 continues to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3702.

§ 31.1 [Amended]

2. The first sentence of § 31.1 is amended by adding the words "or in the agency out of whose activities the claim arose" after the words "the General Accounting Office.

3. Section 31.4 is revised to read as follows:

§ 31.4 Where claims should be filed.

A claimant should file his or her claim with the administrative department or agency out of whose activities the claim arose. Claims which cannot be resolved by the department or agency shall be transmitted to the Claims Group, General Accounting Office, for resolution. Claims referred by agencies to the General Accounting Office, or any correspondence regarding a claim, should be addressed to: Claims Group, General Government Division, U.S. General Accounting Office, Washington, DC 20548.

4. Section 31.5 paragraph (a) is revised to read as follows:

§ 31.5 Statutory limitations on claims.

(a) *Statutory limitations relating to claims generally.* All claims against the United States Government, except as otherwise provided by law, are subject to the 6-year statute of limitations contained in 31 U.S.C. 3702(b). To satisfy this statute of limitations, a claim must be received by the General Accounting Office, or by the agency out of whose activities the claim arose, within 6 years from the date it accrued. The burden of establishing compliance with the statute of limitations rests with the claimant.

§ 31.6 [Amended]

5. Section 31.6 is amended bv removing the words Accounting and Financial Management Division" wherever they appear and adding, in their place, the words "General Government Division.

§ 31.8 [Amended]

6. Section 31.8 paragraph (a) is amended by removing the words "Accounting and Financial Management Division" and adding, in their place, the words "General Government Division.

Milton J. Socolar,

Acting Comptroller General of the United States.

[FR Doc. 89-14295 Filed 6-14-89; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 89-096]

7 CFR Part 301

Mediterranean Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are removing the Mediterranean Fruit Fly regulations that designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. The regulations were established to prevent the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States. We have determined that the Mediterranean fruit fly has been eradicated from Los Angeles County, California, and the regulations are no longer necessary. This rule relieves restrictions on the interstate movement of regulated articles from the quarantined area in Los Angeles County, California.

DATES: Interim rule effective June 12, 1989. Consideration will be given only to comments received on or before August 14, 1989.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Regulatory Analysis and Development, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89-096. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective August 2, 1988, and published in the **Federal Register** on August 8, 1988 (53 FR 29633-29639, Docket Number 88-127), we established the Mediterranean fruit fly regulations (7 CFR 301.78 *et seq.*, referred to below as the regulations) and quarantined an area in Los Angeles County, California. The regulations were amended by two interim rules. The first one, effective October 14, 1988, and published in the **Federal Register** on October 19, 1988, added another portion of Los Angeles County, California, near Culver City, to the list of quarantined areas (53 FR 40865-40866, Docket Number 88-159). The later one, effective November 14, 1988, and published in the **Federal Register** on November 21, 1988, removed a separate portion of Los Angeles County, near Van Nuys, from the list of quarantined areas (53 FR 46844-46845, Docket Number 88-169). The amendments were affirmed in a document published in the **Federal Register** on March 21, 1989 (54 FR 11489-11490, Docket Number 89-025), and effective April 20, 1989.

The regulations imposed restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Mediterranean fruit fly to noninfested areas of the United States. The regulations also designated soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles.

Based on trapping surveys conducted by inspectors of the United States Department of Agriculture and state agencies of California, we have determined that the Mediterranean fruit fly has been eradicated from the quarantined areas in Los Angeles County in California. The last finding of Mediterranean fruit fly in the Los Angeles area was made on October 6, 1988. Since then, no evidence of infestations has been found. We have determined that infestations no longer exist in Los Angeles County in California.

Immediate Action

James W Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. The areas in Los Angeles County in California were quarantined due to the possibility that the Mediterranean fruit fly could be spread from these areas to noninfested areas of the United States. Since this situation no longer exists, and because the quarantined status of these portions of Los Angeles County imposes an unnecessary regulatory burden on the public, we are taking immediate action to remove these restrictions.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule. Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less 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 cause 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.

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

This regulation affects the interstate movement of regulated articles from a portion of Los Angeles County in California. It appears that there is very little commercial activity that may be affected by this rule in the quarantined area. Within the part of Los Angeles County that was quarantined, there are approximately 387 small entities, including 85 nurseries, 50 open fruit stands, 5 community gardens, 10 regularly scheduled swap meets (flea markets, 10 caterers who send lunch "chuckwagons" to job sites in the quarantined area, 200 mobile vendors, 7 wholesale distributors, and 20 dooryard

fruit producers. The effect of this rule on these entities should be insignificant, since it appears that most of their sales are for local intrastate markets, not interstate markets, and are therefore not affected by the regulatory provisions we are removing.

Those sales that were affected were generally of articles that could be moved, without significant added costs, after compliance with treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations.

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.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mediterranean fruit fly, Incorporation by reference.

Accordingly, 7 CFR Part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR Part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17 2.51, and 371.2(c).

§§ 301.78 through 301.78–10 [Removed]

2. "Subpart—Mediterranean Fruit Fly" (7 CFR 301.78 through 301.78–10) is removed.

Done in Washington, DC, this 12th day of June 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–14261 Filed 6–14–89; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 998

[Docket No. FV-89-040]

Marketing Agreement 146 Regulating the Quality of Domestically Produced Peanuts; Relaxation of Outgoing Quality Regulations and Changes in the Terms and Conditions of Indemnification for 1989 Crop Peanuts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule changes the current terms and conditions of indemnification and relaxes outgoing quality regulations for 1989 crop peanuts regulated under Marketing Agreement No. 146. Two changes are being made in the current outgoing quality regulations. The screen sizes applicable to whole kernels in lots of split peanuts are being changed to those in effect for 1987 crop peanuts. Also, the tolerances for sound whole kernels and split and broken kernels falling through specified screens in lots of No. 2 Virginia peanuts are being increased. These changes are intended to lessen the loss of sound edible splits and whole kernels and to reduce handler milling costs. No adverse impact on product quality is expected as a result of these relaxations. In addition to these changes, the printed outgoing quality regulations for the numerous types and grade categories of shelled peanuts are being changed from a narrative to a tabular format to make the requirements easier to read and understand. With regard to the change in the terms and conditions of indemnification, the cut-off date for weekly price calculations used to determine indemnification values is being changed to make the cut-off date for calculations consistent with the deadline for filing indemnification claims.

DATES: This interim final rule becomes effective July 1, 1989. Comments which are received by July 17 1989, will be considered prior to issuance of a final rule.

ADDRESS: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–475–3862.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement 146 (7 CFR Part 998; 53 FR 20291, June 3, 1988), regulating the quality of domestically produced peanuts, hereinafter referred to as the Agreement. This agreement is effective under the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This interim 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 (AMS) has considered the economic impact of this interim final rule on 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.

There are approximately 67 handlers of peanuts subject to regulation under Peanut Marketing Agreement 146 (7 CFR Part 998), and there are about 46,950 peanut growers in the 16 states covered under the program. 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 $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. Some of the handlers signatory to the agreement are small entities, and a majority of the growers may be classified as small entities.

There are three major peanut production areas in the United States: (1) Virginia-Carolina, (2) Southeast, and (3) Southwest, covered under the agreement. These areas encompass 16 states. The Virginia-Carolina area (primarily Virginia and North Carolina) usually produces about 18 percent of the total U.S. crop. The Southeast area (primarily Georgia, Florida and Alabama) usually produces about two-thirds of the crop. The Southwest area (primarily Texas, Oklahoma, and New

Mexico) produces about 15 percent of the crop. Based upon the most current information, U.S. peanut production in 1988 totalled 3.98 billion pounds, a 10 percent increase from 1987 and 8 percent more than in 1986. The 1988 crop value is $1.07 billion, and the 1987 crop is valued at $1.02 billion.

The objective of the agreement is to insure that only wholesome peanuts enter edible market channels. Since aflatoxin was found in peanuts in the mid-1960's, the domestic peanut industry has sought to minimize aflatoxin contamination in peanuts and peanut products.

The agreement plays a very important role in the industry's quality control efforts. It has been in place since 1965 with over 90 percent of U.S. shellers (handlers) participating. The participating shellers handle about 95 percent of the crop. Requirements established pursuant to the agreement require farmers' stock peanuts with visible *Aspergillus Flavus* mold (the principal producer of aflatoxin) to be diverted to nonedible uses. Each lot of peanuts for edible use must be officially sampled and chemically tested for aflatoxin by the U.S. Department of Agriculture (Department) or in laboratories approved by the Peanut Administrative Committee (committee). The committee works with the Department in administering the marketing agreement program. The sampling and chemical analysis inspection programs are administered by the Department. Having complied with these requirements, provision is made for indemnification of sheller losses if the committee or the Food and Drug Administration (FDA) deems the peanuts unsuitable for consumption because of aflatoxin. All indemnification and administration costs are paid by assessments levied on shellers signatory to the agreement.

The incoming quality regulations specify the quality of farmers' stock peanuts which handlers may purchase from producers. Handlers are required to purchase only good quality, wholesome peanuts for edible products. The outgoing quality regulations require shellers to mill peanuts to meet certain quality specifications and have them inspected before such peanuts can be sold to edible outlets. Foreign material and damaged and immature peanuts are removed in the milling operation. Each lot of milled peanuts also must be sampled and the samples chemically analyzed for aflatoxin. If the chemical assay shows the lot to be positive as to aflatoxin, the lot is not allowed to go to edible channels. Lower quality peanuts are crushed for oil and meal. The end result is that only good quality peanuts end up in human consumption outlets.

The committee unanimously recommended the following changes in the outgoing quality regulations and terms and conditions of indemnification for 1989 crop peanuts at its March 28–29, 1989, meeting.

In paragraph (a) of § 998.200 *Outgoing quality regulation,* the screen sizes used in determining fall-through of whole kernels in lots of split peanuts are being changed to those in effect for 1987 crop peanuts. This change relaxes the minimum size requirements for whole kernels in lots of split peanuts. Paragraph (a) is also being changed to increase the fall-through tolerances for No. 2 Virginia type peanuts. Under the agreement, the term "fall-through" means sound split and broken kernels and whole kernels which pass through specified sizes of screens. These changes will make more peanuts available for edible outlets.

Lots of split peanuts of the Runner type and the Spanish and Valencia types cannot contain more than four percent whole kernels. Lots of split peanuts of the Virginia type cannot contain more than ten percent whole kernels. Paragraph (a) currently specifies slotted screen openings used in determining fall-through of whole kernels of 16/64 x 3/4 inch for Runner type peanuts, 15/64 x 3/4 inch for Spanish and Valencia type peanuts and 15/64 x 1 inch for Virginia type peanuts. These screen sizes, which are larger than those used in prior years, were implemented in 1988 to remove small whole kernels from edible channels. Smaller kernels tend to be immature, less flavorful and have a higher incidence of aflatoxin contamination. The increased size requirements also were applicable to lots of split peanuts and No. 2 Virginia peanuts. No. 2 Virginia type peanuts are a mixture of whole and split kernels and generally are marketed with 20 percent or 30 percent whole kernels. However, since 1988 crop operations began, handlers have experienced difficulties in milling lots of split peanuts to meet current outgoing grade specifications. In milling this grade category of peanuts in 1988 to meet the current minimum fall-through requirements, handlers experienced substantial edible product loss and higher than usual milling costs. Such losses occurred when attempting to remove the lower quality small whole kernels (which fall through the larger screens implemented in 1988) from lots of splits. Handlers of No. 2 Virginia type peanuts also experienced milling losses due to excessive fall-through caused by the new screen sizes.

In recognition of the unforeseen problems in processing lots of split peanuts, the committee unanimously recommended that the slotted screen sizes applicable to whole kernels in lots of splits be changed to those in effect for 1987 crop peanuts. The new slotted screen sizes applicable only to lots of splits are as follows: Runner type—14/64 x 3/4 inch; Virginia type—14/64 x 1 inch; and Spanish and Valencia type—13/64 x 3/4 inch.

Because No. 2 Virginia peanuts are generally marketed with 20 or 30 percent whole kernels, the committee determined that a change in the screen sizes to that being made for lots of Virginia split peanuts would not correct the problem of excessive milling losses. Instead, it recommended that the tolerances for fall through of sound split and broken kernels and sound whole kernels in No. 2 Virginia type peanuts be increased from 3.00 percent to 6.00 percent. These tolerances are similar to that prescribed for U.S. No. 2 Virginia grade peanuts in the U.S. Standards for Grades of Shelled Virginia Type Peanuts (7 CFR 2851.2750–2851.2763).

These changes in the outgoing quality regulations are expected to lessen the loss of sound edible whole kernels and splits and to reduce handler milling costs. The relaxations are not expected to have an adverse impact on the quality of peanuts entering edible channels because the volume of peanuts that will be affected by the change is minimal. This change will not increase the likelihood of aflatoxin contamination in lots of split peanuts because of the relatively low number of small whole kernels in these lots. Further, with regard to the increased tolerances in No. 2 Virginia type peanuts, the climate in the area where production of these peanuts is prevalent is not conducive to the growth of Aspergillus flavus mold. Thus, there is no increased risk of aflatoxin contamination with allowing more fall-through in No. 2 Virginia type peanuts.

In addition to these changes, in the printed regulations the outgoing quality requirements for the numerous types and grade categories of shelled peanuts are being changed from a narrative to a tabular format to make the requirements easier to read and understand. With the exception of the two changes mentioned above, which have been incorporated, the tables specify the same requirements that were in effect for 1988 crop peanuts.

The committee also recommended changing paragraph (u) of the terms and conditions of indemnification (§ 998.300)

to extend the cut-off date for making weekly price calculations used in determining indemnification values. These weekly calculations involve averaging the domestic market price of each category of indemnifiable peanuts during the most recent four week period. The cut-off date is being extended from May 31 to November 1, the deadline for filing indemnification claims. Making the cut-off date for calculations consistent with the deadline for filing indemnification claims will ensure that indemnification values at the time claims are filed or settled do not exceed the market value of the peanuts for which indemnification is requested. This has been a committee goal since the inception of the agreement in 1965.

The incoming quality regulations applicable to 1989 crop peanuts are not being changed from those in effect for 1988 crop peanuts. No changes were deemed necessary. In recognition of this, the heading of § 998.100 will be changed from "Incoming quality regulation—1988 crop peanuts" to "Incoming quality regulation—1989 crop peanuts"

Based on available information, the Administrator of the AMS has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant information presented, the committee's recommendation, and other information, it is found that the relaxation of the outgoing quality regulations, the change in the format of the printed regulations and the changes in the terms and conditions of indemnification, as set forth in this interim final rule, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that upon good cause, it is impracticable, unnecessary, and contrary to the public interest to give notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes outgoing quality requirements on handlers and brings the terms and conditions of indemnification into conformity with industry practice; (2) the peanut crop year begins on July 1, and handlers should be given sufficient notice of changes in the regulations adopted as a result of this action to make preparations for 1989 crop operations; and (3) the committee's recommendation, other information, and all written comments timely received in response to this publication will be considered prior to finalization of this interim final rule.

List of Subjects in 7 CFR Part 998

Marketing agreement, Peanuts.

For the reasons set forth in the preamble, 7 CFR Part 998 is amended as follows:

Note: These sections will be published in the Code of Federal Regulations

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

1. The authority citation for 7 CFR Part 998 (53 FR 20291, June 3, 1988) continues to read as follows:

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

§ 998.100 [Amended]

2. The heading of § 998.100 is revised to read "Incoming quality regulation—1989 crop peanuts."

3. In § 998.200, paragraph (a) *Shelled peanuts,* is revised for 1989 crop peanuts to read as follows:

§ 998.200 Outgoing quality regulation—1989 crop peanuts.

(a) *Shelled peanuts.* No handler shall ship or otherwise dispose of shelled peanuts for human consumption unless such peanuts are Positive Lot Identified and certified as meeting the following requirements:

"OTHER EDIBLE QUALITY" (NON-INDEMNIFIABLE) GRADES—WHOLE KERNELS AND SPLITS

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts; damaged kernels and minor defects (percent)	Fall through			Foreign material (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total (percent)		
Maximum Limitations (excluding lots of "splits")							
Runner	1.50	2.50	3.00 17/64 inch round screen.	3.00 16/64 x 3/4 inch slot screen.	4.00 Both screens	.20	9.00
Virginia (except No. 2)	1.50	2.50	3.00 17/64 inch round screen.	3.00 15/64 x 1 inch slot screen.	4.00 Both screens	.20	9.00
Spanish and Valencia	1.50	2.50	3.00 16/64 inch round screen.	3.00 15/64 3/4 inch slot screen.	4.00 Both screens	.20	9.00
No. 2 Virginia	1.50	3.00	6.00 17/64 inch round screen.	6.00 15/64 1 inch slot screen.	6.00 Both screens	.20	9.00
Lots of "splits"							
Runner (not more than 4% sound whole kernels).	1.50	2.50	3.00 17/64 inch round screen.	3.00 14/64 x 3/4 inch slot screen.	4.00 Both screens	.20	9.00
Virginia (not less than 90% splits)	1.50	2.50	3.00 17/64 inch round screen.	3.00 14/64 1 inch slot screen.	4.00 Both screens	.20	9.00
Spanish and Valencia (not more than 4% sound whole kernels).	1.50	2.50	3.00 16/64 inch round screen.	3.00 13/64 x 3/4 inch slot screen.	4.00 Both screens	.20	9.00

Peanuts meeting the foregoing specifications must also be certified "negative as to aflatoxin, prior to shipment, unless they are certified as meeting the following requirements which are applicable to indemnifiable grades:

INDEMNIFIABLE GRADES

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign material (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total (percent)		
	Maximum Limitations						
Runner U.S. No. 1 and better	1.25	2.00	3.00 17/64 inch round screen.	3.00 16/64 x 3/4 inch slot screen.	4.00 Both screens	.10	9.00
Virginia U.S. No. 1 and better	1.25	2.00	3.00 17/64 inch round screen.	3.00 15/64 x 1 inch slot screen.	4.00 Both screens	10	9.00
Spanish and Valencia U.S. No. 1 and better.	1.25	2.00	3.00 16/64 inch round screen.	2.00 15/64 3/4 inch slot screen.	4.00 Both screens	.10	9.00
Runner U.S. Splits (not more than 4% sound whole kernels).	1.25	2.00	3.00 17/64 inch round screen.	3.00 14/64 x 3/4 inch slot screen.	4.00 Both screens	.20	9.00
Virginia U.S. Splits (not less than 90% splits and not more than 3.00% sound whole kernels and portions passing through 20/64 inch round screen).	1.25	2.00	3.00 17/64 inch round screen.	3.00 14/64 x 1 inch slot screen.	4.00 Both screens	.20	9.00
Spanish and Valencia U.S. splits (not more than 4% sound whole kernels).	1.25	2.00	2.00 16/64 inch round screen.	3.00 13/64 x 3/4 inch slot screen.	4.00 Both screens	.20	9.00
Runner with splits (not more than 15% sound splits).	1.25	2.00	3.00 17/64 inch round screen.	3.00 16/64 x 3/4 inch slot screen.	4.00 Both screens	.10	9.00
Virginia with splits (not more than 15% sound splits).	1.25	2.00	3.00 17/64 inch round screen.	3.00 15/64 x 1 inch slot screen.	4.00 Both screens	.10	9.00
Spanish and Valencia with splits (not more than 15% sound splits).	1.25	2.00	3.00 16/64 inch round screen.	2.00 15/64 x 3/4 inch slot screen.	4.00 Both screens	.10	9.00

The term "fall through, as used herein, shall mean sound split and broken kernels and whole kernels which pass through specified screens. Prior to shipment, appropriate samples for pretesting shall be drawn in accordance with paragraph (c) of the Outgoing Quality Regulation from each lot of indemnifiable grade peanuts. The lot size of edible quality shelled peanuts, in bulk or bags, shall not exceed 200,000 pounds.

4. The Section heading and paragraph (u) of § 998.300 *Terms and conditions of indemnification* are revised to read as follows:

§ 998.300 Terms and conditions of indemnification—1989 crop peanuts.

(u) For the purpose of paying indemnification beginning August 1 of the current crop year, the domestic market price for each category of peanuts shall be determined by averaging the price(s) listed in the Federal-State Market News—Peanut Report, per category, during the most recent four week period. Such weekly price calculations shall extend to November 1 following the end of the current crop year.

Dated: June 9, 1989.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-14135 Filed 6-14-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1139

[DA-89-020]

Milk in the Great Basin Marketing Area; Revision of Cooperative Manufacturing Plant Shipping Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Revision of rules.

SUMMARY: This action relaxes the shipping standards for cooperative manufacturing plants regulated by the Great Basin Federal milk order beginning with the month of May 1989. The action relaxes from 45 to 40 percent the percentage of its producer milk that a pool manufacturing plant owned and operated by a cooperative association and located in the marketing area must deliver to pool distributing plants during any current month or during the 12-month period ending with the current month in order to meet the order's pooling standards. The revision is made in response to a request by a cooperative association representing a large proportion of the producers supplying the market, and will prevent uneconomic movements of milk.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Revision of Cooperative Manufacturing Plant Shipping Standards: Issued April 26, 1989; published May 2, 1989 (54 FR 18666).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action will provide greater assurance that handlers will not engage in uneconomic movement of the market's reserve milk supplies in qualifying such milk for pricing status under the order. The action will also 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 rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under the criteria contained therein.

This revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601–674), and the provisions of § 1139.7(e) of the Great Basin order.

Notice of proposed rulemaking was published in the **Federal Register** (54 FR 18666) concerning a proposed relaxation of the percentage of its producer milk that a pool manufacturing plant owned and operated by a cooperative association and located in the marketing area must deliver to pool distributing plants during any current month or during the 12-month period ending with the current month in order to meet the order's pooling standards. The request for the revision specified no time period, and the notice of proposed revision stated that the revision would be effective beginning May 1989. The public was afforded the opportunity to comment on the notice by submitting written data, views and arguments by May 17 1989.

Statement of Consideration

After consideration of all relevant material, data, views and arguments filed and other available information, it is hereby found and determined that the percentage of producer milk required to be shipped to pool distributing plants by a manufacturing plant owned and operated by a cooperative and located in the marketing area should be reduced by 5 percentage points, from 45 percent to 40 percent.

Pursuant to the provisions of § 1139.7(e), the Director of the Dairy Division may increase or decrease the cooperative manufacturing plant shipping percentage by up to 10 percentage points. Such changes may be made to encourage additional milk shipments needed to assure an adequate supply of milk to fluid handlers, or to prevent uneconomic shipments of milk 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.

Western Dairymen Cooperative, Inc. (WDCI), a cooperative association which represents a majority of the producers supplying the Great Basin market, requested that the cooperative manufacturing plant shipping percentage requirement be reduced by 5 percentage points.

The cooperative stated that a loss of sales and increasing production make necessary a reduction of the required level of shipments of producer milk by a cooperative-owned and -operated manufacturing plant to pool distributing plants from 45 percent of producer milk to 40 percent in order to maintain the pool status of its member producers who have long been associated with the marketing area.

According to WDCI, some of the milk of its member producers failed to qualify as producer milk during April 1989, and the revision is needed urgently to be effective beginning with May 1989 milk deliveries. According to the cooperative, the relaxation of the cooperative manufacturing plant shipping percentage requirement is necessary to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers historically associated with the market will continue to have their milk priced under the order.

Comments opposing the revision were filed on behalf of Security Milk Producers, Incorporated, a small California cooperative association supplying milk to a bottling plant in Las Vegas, Nevada. The comments stated the cooperative's opposition to changing the cooperative manufacturing plant shipping standards without a public hearing, and urged that the 45-percent requirement be reinstated after the seasonal flush is over.

Without the revision, milk would have to be moved unnecessarily and uneconomically from farms to pool distributing plants for the sole purpose of maintaining the pool status of producers historically pooled under the Great Basin order. In addition to such movements of milk being inefficient and uneconomic, the additional pumping to which the milk would be subject would be detrimental to the quality of the milk It is concluded the relaxation of the producer milk diversion limit by 5 percentage points will prevent uneconomic movements of milk to pool plants merely for the purpose of qualifying it as a producer milk under the order. The provisions of the order allow the shipping requirement to be increased, as well as reduced, if such action were deemed appropriate at some later time.

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 revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

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

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

Therefore, good cause exists for making this revision effective sooner than 30 days after publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1139

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of § 1139.7(d) of the Great Basin milk order are hereby revised beginning with the month of May 1989.

PART 1139—MILK IN THE GREAT BASIN MARKETING AREA

1. The authority citation for 7 CFR Part 1139 continues to read as follows:

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

§ 1139.7 [Amended]

2. In § 1139.7(d), the provision "45 percent" is revised to "40 percent" beginning with the month of May 1989.

Signed at Washington, DC, on June 9, 1989.

W.H. Blanchard,

Director, Dairy Division.

[FR Doc. 89–14134 Filed 6–14–89; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Parts 1421, 1427 and 1434

RIN 0560-AB22

Price Support and Production Adjustment Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The regulations at 7 CFR Parts 1421, 1427, and 1434 set forth the terms and conditions of the Commodity Credit Corporation (CCC) price support loan programs for grain and similarly handled commodities; upland and extra long staple cotton; and honey, respectively. On March 21, 1989 an interim rule was published in order to make amendments to these regulations which would provide greater clarity, enhance the administration of CCC programs by providing uniformity between CCC price support programs, and eliminate obsolete provisions. This final rule adopts the interim rule with several technical changes and includes provisions which were inadvertently omitted by the interim rule.

EFFECTIVE DATE: June 15, 1989.

ADDRESS: Director, Cotton, Grain and Rice Price Support Division, USDA-ASCS, P.O. Box 2415, Washington, DC 20013. Telephone: (202) 447-8374.

FOR FURTHER INFORMATION CONTACT: Beverly Pritts, Program Specialist, Cotton, Grain, and Rice Price Support Division, USDA-ASCS, P.O. Box 2415, Washington, DC 20013. Telephone: (202) 447-8374.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under United States Department of Agriculture (USDA) procedures implementing Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified as "not major. It has been determined that the provisions of this rule 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 United States-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Agricultural Stabilization and Conservation Service (ASCS) nor the Commodity Credit Corporation (CCC) is 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 rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/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).

CCC previously published final rules on March 1, 1988 (53 FR 6131) and November 25, 1988 (53 FR 47658) with respect to CCC price support programs for feed grains, peanuts, rice, soybeans and wheat which are set forth at 7 CFR Part 1421. Those amendments were made to delete obsolete provisions and to provide greater uniformity between the programs. The changes made by this final rule will, to the maximum extent practicable, provide that the upland and extra long staple cotton and honey programs are administered in the same manner as the aforementioned programs.

The interim rule published on March 21, 1989 (54 FR 11494) deleted in 7 CFR Parts 1421 and 1427 references to specific amounts which are charged by CCC for loan-making and related services. Most of the current fees have been in effect since the 1974 crop year. Fees for loans to sugar processors were implemented for the 1982 crop. Since the current fees charged do not recover the cost of either the total loan administration function or the loanmaking activity alone, 7 CFR Parts 1421 and 1427 were amended to allow for increases in fees so that CCC may recover a greater portion of the current costs incurred. The interim rule provided that such rates will be as determined by CCC in order that CCC may more accurately determine such rates on a State by State basis by taking into account differences in State laws that affect loan-making activities and actual costs incurred by CCC when providing price support to producers.

The interim rule also amended the cotton and honey price support loan provisions with respect to lien subordination agreements. Since CCC price support loans are nonrecourse loans, producers may forfeit the loan collateral in total satisfaction of the loan. Therefore, CCC has required all parties which have a lien on the commodity which has been pledged as collateral for such a loan to execute either a lien waiver or lien subordination agreement with respect to such commodity before a CCC price support loan is made to the producer. In order to fully protect CCC's interest in the commodity which may be forfeited upon the maturity of the loan, CCC no longer utilizes lien subordination agreements. Accordingly, 7 CFR Parts 1427 and 1434 were revised by deleting references to such agreements.

No comments were received in response to the interim rule.

The regulations at 7 CFR Part 1434 set forth the terms and conditions of the CCC price support program for honey. The interim rule amended 7 CFR Part 1434 to remove obsolete provisions and to amend this part for clarity. However, the interim rule inadvertently omitted references to delivery charges and the manner in which interest is assessed when a honey loan is repaid.

Prior to the interim rule, the regulations at 7 CFR 1434.14(b) provided for the payment of a delivery charge by the producer if the producer delivered honey to CCC under a price support loan or purchase agreement. In addition 7 CFR 1434.18(c) provided that interest shall not be assessed on a price support honey loan in certain instances. Accordingly, this final rule amends 7 CFR Part 1434 to set forth these provisions.

The interim rule amended 7 CFR 1427.14; however, the interim rule inadvertently designated § 1427.14 as § 1421.14. Accordingly, this final rule corrects this error.

List of Subjects

7 CFR Part 1421

Grains, Loan programs—agriculture, Price support programs.

7 CFR Part 1427

Cotton, Loan programs—agriculture, Price support programs.

7 CFR Part 1434

Honey, Loan programs—agriculture, Price support programs.

Accordingly, the interim rule

published on March 21, 1989 (54 FR 11494) is adopted with the following changes:

PART 1427—[AMENDED]

1. The authority citation for 7 CFR Part 1427 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423 and 1444–1; 15 U.S.C. 714b and 714c; and sec. 501 of Pub. L. 99–198.

Subpart—Cotton Loan Program Regulations

§ 1427.14 [Amended]

2. The reference in the interim rule published on March 21, 1989 at 54 FR 11494, 11496 to the revision of § 1427.14 is corrected by amending the section heading to read "§ 1427.14 *Fees, charges and interest.*"

PART 1434—[AMENDED]

3. The authority citation for 7 CFR Part 1434 continues to read as follows:

Authority: 7 U.S.C. 1421 and 1446; 15 U.S.C. 714b and 714c.

4. Section 1434.14 is revised to read as follows:

§ 1434.14 Fees, charges and interest.

(a) *Loan Service Fee.* A producer shall pay a nonrefundable loan service fee to CCC at a rate determined by CCC.

(b) Interest which accrues with respect to a loan shall be determined in accordance with Part 1405 of this chapter. Except with respect to called loans, loans which have not been repaid by the maturity date shall accrue interest in accordance with Part 1403 of this chapter beginning the day after the maturity date of the loan. With respect to called loans, interest shall accrue in accordance with Part 1403 of this chapter beginning on the required settlement date.

(c) *Delivery charge.* A delivery charge of 1 cent per hundredweight, in addition to the service charge, shall be paid by producers on the quantity of honey delivered to CCC. Such delivery charge shall be paid at time of settlement.

(d) Interest shall not be assessed on a price support loan for honey which has been repaid at a level which is less than the loan level determined in accordance with § 1434.25(d)(1)(ii).

Signed at Washington, DC on June 6, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89–14259 Filed 6–14–89; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-ANE-04; Amdt. 39-6221]

Airworthiness Directives; GQ Parachutes, Ltd., Type 350 Parachute Assemblies (P/N's MRI GQ 1277, MRI GQ 1304 and MRI GQ 1325), 850 Parachute Assemblies (P/N's MRI GQ 1284, MRI GQ 1315 and MRI GQ 1330), and 4.8m SAC Parachutes (P/N's MRI GQ 1308 and MRI GQ D 22918/2)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, cleaning, and strength testing as required of each net mesh panel on certain GQ parachute assemblies. The AD is needed to detect the presence, and removal if necessary, of acid contamination in the canopy mesh panels. The presence of acid could result in weakening of the canopy fabric and subsequent failure of the canopy during use.

DATES: Effective July 31, 1989.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 31, 1989.

Compliance: As indicated in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service bulletin (SB) may be obtained from GQ Parachutes Ltd., Portugal Road, Woking, Surrey, GU21 5JE England, or may be examined at the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7103.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD requiring inspection, cleaning, and strength testing as required of each net mesh panel on certain GQ parachute assemblies was published in the **Federal Register** on March 10, 1989.

The proposal was prompted by the FAA's determination that certain GQ Parachutes Ltd. parachutes may contain mesh panels that have been improperly treated with a chemical finish, which could result in weakening of the adjacent canopy material and subsequent failure of the parachute during operation.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No objections were received. Accordingly, the proposal is adopted without change.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation involves approximately 50 parachutes at a minimal cost (postage) to the operator. 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 impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, 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. Section 39.13 is amended by adding the following new airworthiness directive (AD):

GQ Parachutes Ltd: Applies to Type 350 Parachute Assemblies (P/N's MRI GQ 1277, MRI GQ 1304 and MRI GQ 1325), 850 Parachute Assemblies (P/N's MRI GQ 1284, MRI GQ 1315 and MRI GQ 1330), and 4.8m SAC Parachutes (P/N's MRI GQ 1308 and MRI GQ D 22918/2).

Compliance is required as indicated, unless already accomplished.

To prevent the use of FAA approved canopies which may contain understrength material, accomplish the following prior to next use after the effective date of this AD:

(a) Perform an acid test on each mesh panel, in accordance with page 11 of GQ Parachutes Ltd. Service Bulletin (SB) No. 25-01, dated January 18, 1989. Those canopies found to be free of acid contamination may be approved for return to service.

(b) For those canopies found to have acid contamination, perform the acid neutralization, pH test, and tensile test, in accordance with pages 5 and 6 of GQ Parachutes Ltd., (SB) No. 25-01, dated January 18, 1989. Those canopies having a pH value greater than 5.5 and a minimum tensile strength of 180 N/25mm (405.5 lbs./in.) may be approved for return to service. For those canopies found to have a pH value of 5.5 or less and/or a tensile strength less than 180 N/25mm (40.5 lbs./in.), remove or obliterate the TSO-C23c marking.

(c) In lieu of compliance with paragraphs (a) and (b) above, the TSO-C23c markings must be removed or obliterated and the parachute must not be used as an approved parachute.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, the Manager, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, may adjust the compliance times specified in this AD or approve an equivalent means of compliance with this AD.

The repair and inspection procedures shall be done in accordance with GQ Parachutes Ltd. Service Bulletin No. 25-01, dated May 23, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from GQ Parachutes Ltd., Portugal Road, Woking, Surrey, GU21 5JE England. Copies may be inspected at the Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street, Room 8301, Washington, DC 20591.

This final amendment becomes effective on July 31, 1989.

Issued in Burlington, Massachusetts, on May 8, 1989.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89-14235 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-AGL-6]

Alteration to Transition Area; Litchfield, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: The nature of this action is to alter the existing Litchfield, MN, transition area to accommodate new VOR-A, RNAV Runway 13, and RNAV Runway 31 Standard Instrument Approach Procedures (SIAPs) to new Litchfield Municipal Airport, Litchfield, MN. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 u.t.c., September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Harold G. Hale, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Monday, March 20, 1989, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Litchfield, MN (54 FR 11382).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the transition area airspace near Litchfield, MN. The present transition area is being modified to accommodate VOR-A, RNAV Runway 13, and RNAV Runway 31 SIAPs to new Litchfield Municipal Airport.

The new Litchfield Municipal Airport is being established at latitude 45°05'47" N., longitude 94°30'21" W which is approximately 2.6 nautical miles south of the existing airport. The proposal to establish this new airport was circularized to the aviation public under Airspace Case Number 82-AGL-421-NRA.

The development of the procedures requires that the FAA alter the designated airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitude for these procedures may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rules requirements.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition 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), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g)

(Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Litchfield, MN [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Litchfield Municipal Airport (lat. 45°05'47" N., long. 94°30'21" W.); and within 3.25 miles each side of the 102° bearing extending from the 5-mile radius to 6.5 miles southeast of the airport; within 3.25 miles each side of the 137° bearing extending from the 5-mile radius to 6.5 miles southeast of the airport; within 3.25 miles each side of the 317° bearing extending from the 5-mile radius to 6.5 miles northwest of the airport.

Issued in Des Plaines, Illinois on June 2, 1989.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 89–14230 Filed 6–14–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 514

[Docket No. 89N–0189]

New Animal Drugs; Removal of Obsolete Regulations; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the inadvertent omission of a docket number in the heading of a final rule published in the **Federal Register** of May 26, 1989 (54 FR 22741). This document corrects that error by designating the docket number that is in the heading of this correction to that final rule.

EFFECTIVE DATE: June 15, 1989.

FOR FURTHER INFORMATION CONTACT: Rada Proehl, Regulations Editorial Staff (HFC–222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301–443–2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 89–12577 appearing on page 22741, first column, in the **Federal Register** of Friday, May 26, 1989, the docket number is added between the headings "21 CFR Parts 510 and 514" and "New Animal Drugs; Removal of Obsolete Regulations" to read as follows: "[Docket No. 89N–0189]"

Dated: June 8, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–14239 Filed 6–14–89; 8:45 am]

BILLING CODE 4160–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's interim regulation on Payment of Premiums, which was published on June 30, 1988 (53 FR 24906). Appendix B to the interim regulation contains a table setting forth the interest rates that are required by statute to be used in valuing a plan's vested benefits for purposes of determining the amount of the premium due to the PBGC. This amendment adds to that table the interest rate applicable to plan years beginning in June 1989.

EFFECTIVE DATE: June 15, 1989.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Senior Counsel, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street NW Washington, DC 20006; telephone 202–778–8823 (202–778–8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 9331 of the Omnibus Budget Reconciliation Act of 1987 Pub. L. 100–203, amended section 4006 of the Employee Retirement Income Security Act of 1974 ("ERISA") to establish a two-part premium structure for single-employer plans, *i.e.*, a flat rate per capita assessment and a variable rate assessment based on a plan's unfunded vested benefits, effective for plan years beginning on or after January 1, 1988. Under amended ERISA section 4006(a)(3)(E)(iii)(II), the interest rate used in valuing a plan's vested benefits for purposes of determining the amount of the plan's unfunded vested benefits must equal 80% of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

The Pension Benefit Guaranty Corporation's (the "PBGC's") interim regulation on Payment of Premiums (53 FR 24906 (June 30, 1988)) implements these new premiums rules. Under § 2610.23(b)(1) of the regulation, the interest rate for valuing vested benefits is determined by reference to the annual yield for 30-year Treasury constant maturities as reported in Federal Reserve Statistical Release G.13 and H.15. The required interest rate for a given "premium payment year" (the plan year for which the premium is being paid) is 80% of this rate for the calendar month preceding the calendar month in which the premium payment year begins. As a convenience, the PBGC established an Appendix B to the interim regulation containing a table setting forth the required interest rates for premium payment years beginning in January 1988 and thereafter.

The PBGC is amending Appendix B to add the required interest rate for premium payment years beginning in June 1989. Appendix B to the interim regulation does not prescribe the required interest rates for valuing vested benefits. These rates are prescribed by section 4006(a)(3)(E)(iii)(II) of ERISA and § 2610.23(b)(1) of the regulation. The purpose of Appendix B is merely to collect and to republish these rates in a convenient place. Thus, the interest rates in Appendix B are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. See 5 U.S.C. 553(b). For these same reasons, the PBGC also finds that good cause exists for making these amendments effective immediately. See 5 U.S.C. 553(d)(3).

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2610

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Appendix B to Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for Part 2610 continues to read as follows:

Authority: 29 U.S.C 1302(b)(3), 1306, 1307 as amended by sec. 9331, Pub. L. 100–203, 101 Stat. 1330.

2. Appendix B to Part 2610 is amended by adding to the table of interest rates therein a new entry to read as follows. The explanatory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates for Valuing Vested Benefits

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan s adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate
June 1989	7.06

The required interest rate listed above is equal to 80% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15, for the calendar month preceding the calendar month in which the premium payment year begins.

Issued in Washington, DC, on this 8th day of June 1989.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89-14241 Filed 6-14-89; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of July 1989.

EFFECTIVE DATE: July 1, 1989.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW Washington, DC 20006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest

(c) *Interest rates.*

For valuation dates occurring in the month:	The values of i_k are:															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_u
July 1989	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Issued at Washington, DC, on this day of June 1989.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation

[FR Doc. 89-14242 Filed 6-14-89; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AD43

Internment Period Required for Eligibility for Dental Care for Former Prisoners of War

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is amending its medical regulations (38 CFR Part 17) by changing the internment period required for dental care for former Prisoners of War (POWs) by striking out "six months" and inserting in lieu thereof "90 days. This reduced internment period expands the existing benefit for detained or interned prisoners of war for authorized and needed dental treatment.

EFFECTIVE DATE: This amendment is effective May 20, 1988, in accordance with Pub. L. 100-322.

FOR FURTHER INFORMATION CONTACT: Paul C. Tryhus, Chief, Policies and Procedures Division (136F), Veterans Health Services and Research Administration, Department of Veterans Affairs, 810 Vermont Avenue NW Washington, DC 20420, (202) 233-2143.

SUPPLEMENTARY INFORMATION: Under VA's regulations regarding an internment period required for eligibility for dental care for former Prisoners of War (38 CFR 17.123(d)(e)) both class II(b) and class II(c) beneficiaries must have been detained or interned as prisoners of war for less than (class II(b))/or more than (class II(c)) six months to obtain authorized dental treatment.

This amendment would change the delimiting period from less than six months to less than 90 days for the correction of service-connected noncompensable dental conditions or disability as is authorized as reasonably necessary treatment for persons who had been detained or interned as Prisoners of War (38 CFR 17.123(d)). In addition, this amendment would change the delimiting period from six months or more to 90 days or more for persons who had been detained or interned as Prisoners of War in order to be authorized reasonably necessary dental care. (38 CFR 17.123(e))

VA finds for good cause that advance publication for notice and public comment is not required. Section 106 of Pub. L. 100-322, the Veterans Benefits and Services Act of 1988, reduced the period of internment for purposes of eligibility for dental care for former POWs from six months to 90 days. The proposed regulatory amendment merely updates VA regulations consistent with this recent change in the law and does not involve any substantive change in VA policy or regulations. Thus, in accordance with the provisions of 38 CFR 1.12 advance publication in the **Federal Register** is unnecessary. Accordingly, the change in the regulations is now published as final.

Since notice of proposed rulemaking is not required and will not be published, this change does not constitute a "rule" as defined in and made subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601(2). In any case, this change will not have a significant economic impact on a substantial number of small entities.

VA has also determined that this change is not a major rule under Executive Order 12291, Federal Regulation, because it will not have a $100 million annual effect of the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse economic effects.

Catalog of Federal Domestic Assistance Numbers: 64.009 and 62.001.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Veterans.

Approved: May 23, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 17—[AMENDED]

In 38 CFR Part 17 Medical, § 17.123 is amended by revising paragraphs (d) and (e) to read as follows:

§ 17.123 Authorization for outpatient dental treatment.

(d) *Class II(b).* Those having a service-connected noncompensable dental condition or disability and who had been detained or interned as prisoners of war for a period of less than 90 days may be authorized any treatment as reasonably necessary for the correction of such service-connected dental condition or disability.

(Authority: Pub. L. 100-322; 38 U.S.C. 612(b)(1)(F))

(e) *Class II(c).* Those who were prisoners of war for 90 days or more, as determined by the concerned military service department, may be authorized any needed dental treatment.

(Authority: Pub. L. 100-322, 38 U.S.C. 612(b)(1)(F))

[FR Doc. 89-14226 Filed 6-14-89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3561-8]

Approval and Promulgation of Air Quality Implementation Plans, Louisiana; State Implementation Plan for PM_{10} Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's notice approves the Louisiana State Implementation Plan (SIP) for the PM_{10} standard. (PM_{10} is particulate matter less than or equal to ten microns in diameter.) The State adopted this plan in response to EPA's July 1, 1987 rulemaking that established a new national ambient air quality standard (NAAQS) for particulate matter. Under the terms of that rule, Louisiana had to revise its existing regulations for prevention of significant deterioration (PSD) and new source review (NSR) to reflect the new NAAQS. The State also revised appropriate definitions, emergency episode planning, and air quality standard regulations.

DATES: This action will become effective on August 14, 1989, unless notice is received within 30 days of publication that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the State's submittal and other relevant documents may be reviewed at the following locations during normal business hours:

U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue (6T-AN), Dallas, TX 75202-2733

Louisiana Department of Environmental Quality, 625 N. 4th Street, 8th Floor, P.O. Box 44096, Baton Rouge, LA 70804-4096

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW Washington, DC 20460

If you plan to visit either of these offices, please contact the person named below to schedule an appointment.

Submit comments to Mr. Thomas H. Diggs, Chief, SIP/New Source Section, at the address given below for EPA Region 6.

FOR FURTHER INFORMATION CONTACT: Barbara Durso at (214) 655-7214, or FTS 255-7214.

SUPPLEMENTARY INFORMATION. On July 1, 1987 EPA adopted a new NAAQS for particulate matter. Previously, EPA used total suspended particulate (TSP) matter as the indicator for ambient particulate matter concentration. The new standard uses a measurement of particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (μm) as the indicator.[1] Based upon existing monitoring data, each area within a State was assessed a probability of violating the new standard. The areas least likely to have excessive PM_{10} measurements are classified as Group III areas and only need adjustments to the PSD/NSR provisions of their SIPs.[2] All areas in Louisiana were designated as Group III.

Louisiana has revised its PSD and NSR regulations as well as appropriate definitions, emergency episode planning and air quality standard regulations to comply with the new Federal standard for particulate matter. Because Louisiana applies its air quality regulations statewide, the Louisiana Department of Environmental Quality (LDEQ) submits this proposed SIP for all air quality control regions under its jurisdiction.

LDEQ adopted these revised regulations on May 5, 1988, after a public hearing, at which no comments were made. The State regulations became effective on June 20, 1988. LDEQ then submitted the revisions to EPA by letter dated July 26, 1988, for approval as part of the Louisiana SIP After being reviewed according to the March 18, 1988, "Policy for Determining Completeness of SIP Submittals, EPA informed LDEQ in a letter dated September 13, 1988, that certain required supporting documents (e.g., formal request from the Governor) were missing. By letter dated October 4, 1988, LDEQ sent the Governor's request and the other documents needed to process the proposed Louisiana PM_{10} SIP

EPA Region 6 worked closely with LDEQ in developing the PM_{10} SIP over the past year. The proposed revisions are described below.

Definitions [LAC:33:III:111 (formerly regulation 4.0)]

LDEQ revised its definition of particulate matter and total suspended particulate and added definitions for particulate matter emissions, PM_{10}, and PM_{10} emissions. These definitions are essentially identical to the Federal definitions; however, in its definition of PM_{10}, the State does not refer to reference methods or equivalent samplers as designated under 40 CFR Part 53. For practical purposes, the State will only be able to use instrumentation and procedures that meet the requirements of 40 CFR Part 53, because monitoring networks must be approved by EPA. LDEQ also deleted its definition for suspended particulate matter, which EPA disapproved in a March 1979 rulemaking notice. EPA proposes to approve all these changes.

The State's proposal also includes two definitions not necessarily related to PM_{10} control. These two definitions are for control equipment and waste classification. The definition for control equipment is "any device, contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution. The definition for waste classification is basically the same as the definition already approved but spells out Incinerator Institute of America instead of using the abbreviation "I.I.A. EPA proposes to approve these definitions.

PSD Regulations [LAC:33:III:509.B "Significant" (formerly regulation 90.2(22)) and LAC:33:III:509.I.8.a (formerly regulation 90.9(8)(i))]

LDEQ revised its limits for particulate matter that it considers to be significant and *de minimis* for its prevention of significant deterioration (PSD) program. The State's limits are the same as the Federal limits. EPA notes that it interprets the significance level for particulate matter at LAC:33:III:509.B to mean 25 tons per year particulate *matter* emissions. EPA proposes to approve these revisions.

Ambient Air Quality [LAC:33:III:709 (formerly regulations 15.5, 16.5, 13.5, 9.4, 12.5, and 10.3) and Tables 1, 1a, and 2]

The State revised its code to reflect the new primary and secondary standards for particulate matter as indicated by PM_{10} monitoring. The State's standards are more stringent than the Federal standards, because LDEQ uses a deterministic, rather than statistical, method for measuring compliance. LDEQ permits a maximum concentration of 50 micrograms of PM_{10} per cubic meter of air as an annual arithmetic mean and a maximum 24-hour concentration of 150 micrograms of PM_{10} per cubic meter of air not to be exceeded more than once per year. EPA proposes to approve these revisions.

Emission Standards for Particulate Matter [LAC:33:III:1301.B, 1303.A, 1305.A, 1311.B, 1311.C, 1313.C, 1315, and 1319.G (formerly regulations 19.2, 9.2.1, 19.3, 19.5, 19.5.1, 21.3, 21.6, and 20.0 respectively)]

LDEQ replaced the terms "particulate matter and/or suspended particulate matter and "suspended particulate matter with the term "particulate matter" to ensure consistency with the Federal rules. EPA proposes to approve these changes.

Emergency Episode Planning [LAC:33:III:5609.A.1, 2, and 3 (formerly regulation 27)]

LDEQ revised the alert, warning, and emergency levels for emergency episodes involving PM_{10} concentrations to match the Federal guidelines. EPA proposes to approve these revisions.

Narrative Supplement to the Louisiana PM_{10} SIP

LDEQ also provided a short, narrative supplement with the regulatory revisions. The narrative notes that yearly ambient air reports will be compiled and made available to the public with individual ambient values available upon request. The narrative also identifies those regulations that were revised to incorporate the intent of the PM_{10} ambient air quality standard. LDEQ notes that available air quality data indicate that the new standard is not being exceeded in Louisiana and that the emission inventory data base for PM_{10} will commence with the fiscal year 1988 emission inventory system (EIS) update. This data base will continue to be updated in future years. Because compliance with existing particulate emission limits appears to be adequate to assure compliance with the PM_{10} standard, the State decided that no additional compliance schedules are necessary. The State also notes that there are no additional resources available to implement the new standard, but the contemporaneous deletion of the TSP standard should allow the State to implement the new standard. LDEQ projects, however, that it will seek additional financial assistance of $32,000 over the next five years to carry out its plan. The bulk of this money is to cover the cost of acquiring PM_{10} monitors. LDEQ also notes that "the ambient air monitoring

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See 52 FR 24634.

See 52 FR 24672.

necessary to support the implementation of the new standard is described in the [National Air Monitoring System] and [State/Local Air Monitoring System] networks submitted to EPA in the first quarter of [fiscal year] 1988.

Final Action

EPA approves the Louisiana SIP for PM_{10} and the attendant regulations.

This action is being taken without prior public notice, because the changes are noncontroversial and EPA does not anticipate receiving any adverse comments on them. The public should be advised that this action is effective 60 days from the date of publication of this Federal Register notice. However, if notice is received within 30 days of publication that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published that begins a new rulemaking period by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter.

Authority: 42 U.S.C. 7401–7642.

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

Date: April 18, 1989.

Robert E. Layton Jr., P.E.,

Regional Administrator.

40 CFR Part 52, Subpart T, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart T—Louisiana

2. Section 52.970 is amended by adding paragraph (c)(50) to read as follows:

§ 52.970 Identification of plan.

(c)

(50) The Louisiana State Implementation Plan for PM_{10} as submitted by the Governor in a letter dated July 26, 1988, and adopted by the State effective June 20, 1988.

(i) *Incorporation by Reference.* (A) Revisions to the Louisiana Administrative Code, Title 33, Chapter III, Sections 111, 509.B, 509.L8.a, 709, 1301.B, 1303.A, 1305.A, 1311.B, 1311.C, 1313.C, 1315, 1319.G, 5609.A.1, 5609.A.2, 5609.A.3, and Tables 1, 1a, and 2 of chapter 7 as adopted effective June 20, 1988.

(ii) Additional material.

(A) A letter dated July 26, 1988, from Paul H. Templet, Secretary, Louisiana Department of Environmental Quality, to the Governor of Louisiana approving the adoption of amendments to the Louisiana Air Quality Regulations to implement the new PM_{10} standard effective June 20, 1988.

(B) A narrative supplement to the Louisiana PM_{10} submitted by the Governor in a letter dated July 26, 1988.

[FR Doc. 89–13419 Filed 6–14–89; 8:45 am]

BILLING CODE 6560–50–M

[GA-013 (FRL-3601-3)]

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Georgia; Stack Height Review

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves a declaration by Georgia that recent revisions to EPA's stack height regulations do not necessitate source-specific revisions to the State Implementation Plan (SIP). The State was required to review its SIP for consistency within nine months of final promulgation of the stack height regulations. The intended effect of this action is to formally document that Georgia has satisfied its obligations under section 406 of the Clean Air Act Amendments of 1977 to review its SIP with respect to EPA's revised stack height regulations. No emission limitations were affected by stack height credit above GEP or any other dispersion technique. This approval does not apply to fifteen sources identified below.

EFFECTIVE DATE: This action will be effective on July 17 1989.

ADDRESSES: Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW Washington, DC 20460.

Air Programs Branch, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Air Protection Branch, Georgia Department of Natural Resources, Floyd Towers East, Room 1162, 205 Butler Street, Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Beverly T. Hudson, EPA Region IV Air Programs Branch, at the above listed address, telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: On February 8, 1982 (47 FR 5864), EPA promulgated regulations limiting stack height credit and other dispersion techniques required by section 123 of the Clean Air Act (the Act). These regulations were challenged in the U.S. Court of Appeals for the DC Circuit by the Sierra Club Legal Defense Fund, Inc., the Natural Resources Defense Council, Inc., and the Commonwealth of Pennsylvania in *Sierra Club* v. *EPA*, 719 F 2d 436. On October 11, 1983, the court issued its decision, ordering EPA to reconsider portions of the stack height regulations, reversing certain portions, and upholding other portions.

On February 28, 1984, the electric power industry filed a petition for a writ certiorari with the U.S. Supreme Court. On July 2, 1984, the Supreme Court denied the petition (104 s. CT 3571), and on July 18, 1984, the Court of Appeals formally issued a mandate implementing its decision and requiring EPA to promulgate revisions to the stack height regulations within six months. The promulgation deadline was ultimately extended to June 27 1985.

Revisions to the stack height regulations were proposed on November 9, 1984 (49 FR 44878), and finalized on July 8, 1985 (50 FR 27892). The revisions redefine a number of specific terms, including "excessive concentration," "dispersion techniques," "nearby, and other important concepts, and modify some of the bases for determining good engineering practice (GEP) stack height.

Pursuant to section 406(d)(2) of Pub. L. 95–95, all states were required to (1) review and revise, as necessary, their state implementation plans (SIPs) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations and (2) review all existing emission limitations to determine whether any of these limitations have been affected by stack height credit above GEP or any other dispersion techniques. For any limitations so affected, states were to

prepare revised limitations consistent with their revised SIPs. All SIP revisions and revised emission limits were to be submitted to EPA within 9 months of promulgation, as required by statute.

Subsequently, EPA issued detailed guidance on carrying out the necessary reviews. For the review of emission limitations, states were to prepare inventories of stacks greater than 65 m in height and sources with emissions of sulfur dioxide (SO_2) in excess of 5,000 tons per year. These limits correspond to the *de minimis* GEP stack height and the *de minimis* SO_2 emission exemption from prohibited dispersion techniques. Sources were exempted from further review if they fell under the grandfathering clause (i.e., in existence before December 31, 1970), if their stack height was less than *de minimis* stack height (65m), or if their actual height was less than the calculated Good Engineering Practice (GEP) stack height.

The remaining sources were then subjected to detailed review for conformance with the revised regulations. State submissions were to contain an evaluation of each stack and source in the inventory. Georgia has concluded that its SIP includes provisions that limit stack height credits and dispersion techniques in accordance with the revised EPA stack height regulations. They also found that no emission limitations have been affected by stack height credits above GEP or any other prohibited dispersion techniques. Georgia has indicated that the documentation is available for review at the State office (listed above).

On March 26, 1987 Georgia submitted for EPA's approval documentation for Good Engineering Practice (GEP) Stack Height. EPA proposed to approve the declaration on February 24, 1989 (54 FR 7964). At that time, the public was invited to submit written comments on the proposed action. Comments were submitted on behalf of Georgia Power Company, which owns and operates several plants with stacks that have been evaluated pursuant to the stack height regulations. Georgia Power wants EPA Region IV to clarify the status of the following five plants affected by the stack heights regulations. EPA is not acting on Plant Yates in this notice. The analysis for this source is not yet completed and will be dealt with in a subsequent notice. EPA has concluded that Plant Bowen Units 3 & 4 are grandfathered and that no further analysis is needed. The remaining three plants—Scherer, Wansley and McIntosh—will not need to be remodeled since EPA accepts the explanation submitted by Georgia that auxiliary boilers are not operated at the same time as the main steam units. EPA is therefore approving the State's declaration that no emission limitations were affected by stack height credit above GEP or any other dispersion technique, except as the declaration applies to Plant Yates and other sources identified below.

On January 22, 1988, the U.S. Court of Appeals for the District of Columbia issued its decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Dir. 1988), regarding the Environmental Protection Agency's (EPA's) stack height regulations (50 FR 27892, July 8, 1985); the court upheld most of the rules, but certain provisions were remanded to the EPA for further consideration. Accordingly, EPA is not acting on fifteen sources (Georgia Power Plants Mitchell (Albany), Hammond (Coosa), McDonough (Smyrna), Arkwright (Macon), Branch (Milledgville), Wansley (Roopville), Scherer (Juliette), and Yates (Newnan); Savannah Electric Plants McIntosh (Rincon) and Port Wentworth (Port Wentworth); Inland (Rome); Buckeye Cellulose (Oglethorpe); Georgia Kraft (Macon); Union Camp (Savannah); and Stone Container (Savannah)) because they currently receive credit under one of the provisions remanded to EPA. Georgia and EPA will review these sources for compliance with any revised requirements when EPA completes rulemaking to respond to the *NRDC* remand.

EPA Review. EPA has reviewed Georgia's submittal and concurs with the conclusion that no revisions to Georgia's existing source emission limitations are necessary as a result of EPA's revised stack height regulations. Georgia has therefore met its obligations under Section 406 of Pub.L. 95–95 for existing source emission imitations. (EPA approved Georgia's stack height rules for new sources on February 15, 1989 (54 FR 6936).)

Final Action. EPA approves the declaration by Georgia that recent revisions to EPA's stack height regulations do not necessitate SIP revisions for specific sources in this State. EPA proposed to approve the declaration on February 24, 1989 (54 FR 7964). The declaration does not apply to the fifteen sources previously mentioned.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit on or before August 14, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter, Sulfur oxides.

Dated: June 5, 1989.

Joe R. Franzmathes,

Acting Regional Administrator.

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

PART 52—[AMENDED]

Subpart L—Georgia

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

Authority: 42 U.S.C. 7401–7642.

2. A new § 52.578 is added to read as follows:

§ 52.578 Control strategy: Sulfur oxides and particulate matter.

In a letter dated March 26, 1987 the Georgia Department of Natural Resources certified that no emission limits in the State's plan are based on dispersion techniques not permitted by EPA's stack height rules. This certification does not apply to: Georgia Power Plants Mitchell (Albany), Hammond (Coosa), McDonough (Smyrna), Arkwright (Macon), Branch (Milledgville), Wansley (Roopville), Scherer (Juliette), and Yates (Newnan); Savannah Electric Plants McIntosh (Rincon) and Port Wentworth (Port Wentworth); Inland (Rome); Buckeye Cellulose (Oglethorpe); Georgia Kraft (Macon); Union Camp (Savannah); and Stone Container (Savannah).

[FR Doc. 89–14216 Filed 6–14–89; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[TN-041; FRL-3600-5]

Approval and Promulgation of Implementation Plans; Tennessee; Stack Height Review

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves a declaration by Tennessee that recent revisions to EPA's stack height regulations do not necessitate source-specific revisions to the State Implementation Plan (SIP). The State

was required to review its SIP for consistency within nine months of final promulgation of the stack height regulations. The intended effect of this action is to formally document that Tennessee has satisfied its obligations under section 406 of the Clean Air Act Amendments of 1977 to review its SIP with respect to EPA s revised stack height regulations. No emission limitations were affected by stack height credit above Good Engineering Practice (GEP) or any other dispersion technique.

EFFECTIVE DATE: This action will be effective on July 17 1989.

ADDRESSES: Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Air Programs Branch, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Tennessee Department of Public Health and Environment, Customs House, 4th Floor, 701 Broadway, Nashville, Tennessee 37219-5403.

FOR FURTHER INFORMATION CONTACT: Beverly T. Hudson, EPA Region IV Air Programs Branch, at the above listed address, telephone (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: On February 8, 1982 (47 FR 5864), EPA promulgated final regulations limiting stack height credit and other dispersion techniques as required by Section 123 of the Clean Air Act (the Act). These regulations were challenged in the U.S. Court of Appeals for the D.C. Circuit by the Sierra Club Legal Defense Fund, Inc., the Natural Resources Defense Council, Inc., and the Commonwealth of Pennsylvania in *Sierra Club* v. *EPA*, 719 F 2d 436. On October 11, 1983, the court issued its decision, ordering EPA to reconsider portions of the stack height regulations, reversing certain portions, and upholding other portions.

On February 28, 1984, the electric power industry filed a petition for a writ of certiorari with the U.S. Supreme Court. On July 2, 1984, the Supreme Court denied the petition (104 s. CT. 3571), and on July 18, 1984, the Court of Appeals formally issued a mandate implementing its decision and requiring EPA to promulgate revisions to the stack height regulations within six months. The promulgation deadline was ultimately extended to June 27 1985.

Revisions to the stack height regulations were proposed on November 9, 1984 (49 FR 44878), and finalized on July 8, 1985 (50 FR 27892). The revisions redefine a number of specific terms, including "excessive concentration, "dispersion techniques, "nearby, and other important concepts, and modify some of the bases for determining good engineering practice (GEP) stack height.

Pursuant to section 406(d)(2) of Pub. L. 95-95, all states were required to (1) review and revise, as necessary, their state implementation plans (SIPs) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations and (2) review all existing emission limitations to determine whether any of these limitations have been affected by stack height credit above GEP or any other dispersion techniques. For any limitations so affected, states were to prepare revised limitations consistent with their revised SIPs. All SIP revisions and revised emission limits were to be submitted to EPA within 9 months of promulgation, as required by statute.

Subsequently, EPA issued detailed guidance on carrying out the necessary reviews. For the review of emission limitations, states were to prepare inventories of stacks greater than 65 m in height and sources with emissions of sulfur dioxide (SO_2) in excess of 5,000 tons per year. These limits correspond to the *de minimis* GEP stack height and the *de minimus* SO_2 emission exemption from prohibited dispersion techniques. Sources were exempted from further review if they fell under the grandfathering clause (i.e., in existence before December 31, 1970), if their stack height was less than *de minimis* stack height (65m), or if their actual height was less than the calculated GEP stack height.

The remaining sources were then subjected to detailed review for conformance with the revised regulations. State submissions were to contain an evaluation of each stack and source in the inventory. Tennessee has concluded that its SIP includes provisions that limit stack height credits and dispersion techniques in accordance with the revised EPA stack height regulations. They also found that no emission limitations have been affected by stack height credits above GEP or any other prohibited dispersion techniques. Tennessee has indicated that the documentation is available for review at the State office (listed above).

On March 9 and April 15, 1988, Tennessee submitted for EPA's approval documentation for GEP Stack Height. EPA proposed to approve the declaration on March 29, 1989 (54 FR 12926). At that time, the public was invited to submit written comments on the proposed action. However, no comments were received. EPA is therefore approving the State's declaration that no emission limitations were affected by stack height credit above GEP or any other dispersion technique, except as the declaration applies to seven sources identified below.

On January 22, 1988, the U.S. Court of appeals for the District of Columbia issued its decision in NRDC v. Thomas, 838 F.2d 1224 (D.C. Dir. 1988), regarding the Environmental Protection Agency's (EPA's) stack height regulations (50 FR 27892, July 8, 1985); the court upheld most of the rules, but certain provisions were remanded to the EPA for further consideration. Accordingly, EPA is not acting on seven sources (Dupont (43-07-02); Tennessee Valley Authority—Johnsonville (43-11-1 thru 10); Tennessee Chemical Company (70-04-21); Tennessee Eastman (82-03-15-19); A.E. Staley (53-81-18, 19, 34, 31); Cargill Inc., Memphis; and Grace Chemical Company, Millington) because they currently receive credit under one of the provisions remanded to EPA. Tennessee and EPA will review these sources for compliance with any revised requirements when EPA completes rulemaking to respond to the *NRDC* remand.

EPA Review. EPA has reviewed Tennessee's submittal and concurs with the conclusion that no revisions to Tennessee's existing source emission limitations are necessary as a result of EPA's revised stack height regulations. Tennessee has therefore met its obligations under Section 406 of Pub. L. 95-95 for existing source emission limitations. (EPA approved Tennessee s stack height rules for new sources on October 19, 1988 (53 FR 40881)).

Final Action. EPA approves the declaration by Tennessee that recent revisions to EPA's stack height regulations do not necessitate SIP revisions for specific sources in this State. EPA proposed to approve the declaration on March 29, 1989 (54 FR 12926). The declaration does not apply to the seven sources previously mentioned.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 14, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter, Sulfur oxides.

Dated: May 31, 1989.

Joe R. Franzmathes,

Acting Regional Administrator.

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

PART 52—[AMENDED]

Subpart RR—Tennessee

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2231 is amended by making the phrase "Part D conditional approval" begin paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 52.2231 Control strategy: Sulfur oxides and particulate matter.

(a) Part D conditional approval.

(b) In letters dated March 9 and April 15, 1988, the Tennessee Department of Health and Environment certified that no emission limits in the State's plan are based on dispersion techniques not permitted by EPA's stack height rules. This certification does not apply to: Dupont (43–07–02); Tennessee Valley Authority—Johnsonville (43–11–1 thru 10); Tennessee Chemical Company (70–04–21); Tennessee Eastman (82–03–15–19); A.E. Staley (53–81–18, 19, 34, 31); Cargill Inc., Memphis; and Grace Chemical Company, Millington.

[FR Doc. 89–14217 Filed 6–14–89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[FL-024; FRL-3600-6]

Approval and Promulgation of Implementation Plans, Florida; Stack Height Review

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves a declaration by Florida that recent revisions to EPA's stack height regulations do not necessitate source-specific revisions to the State Implementation Plan (SIP). The State was required to review its SIP for consistency within nine months of final promulgation of the stack height regulations. The intended effect of this action is to formally document that Florida has satisfied its obligations under Section 406 of the Clean Air Act Amendments of 1977 to review its SIP with respect to EPA's revised stack height regulations. No emission limitations were affected by stack height credit above GEP or any other dispersion technique.

EFFECTIVE DATE: This action will be effective on July 17 1989.

ADDRESSES: Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW Washington, DC 20460.

Air Programs Branch, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 29201.

FOR FURTHER INFORMATION CONTACT: Beverly T. Hudson, EPA Region IV Air Programs Branch, at the above listed address, telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: On February 8, 1982 (47 FR 5864), EPA promulgated final regulations limiting stack height credit and other dispersion techniques as required by Section 123 of the Clean Air Act (the Act). These regulations were challenged in the U.S. Court of Appeals for the D.C. Circuit by the Sierra Club Legal Defense Fund, Inc., the Natural Resources Defense Council, Inc., and the Commonwealth of Pennsylvania in *Sierra Club* v. *EPA*, 719 F 2d 436. On October 11, 1983, the court issued its decision, ordering EPA to reconsider portions of the stack height regulations, reversing certain portions, and upholding other portions.

On February 28, 1984, the electric power industry filed a petition for a writ of certiorari with the U.S. Supreme Court. On July 2, 1984, the Supreme Court denied the petition (104 s. CT. 3571), and on July 18, 1984, the Court of Appeals formally issued a mandate implementing its decision and requiring EPA to promulgate revisions to the stack height regulations within six months. The promulgation deadline was ultimately extended to June 27 1985.

Revisions to the stack height regulations were proposed on November 9, 1984 (49 FR 44878), and finalized on July 8, 1985 (50 FR 27892). The revisions redefine a number of specific terms, including "excessive concentration, "dispersion techniques, "nearby, and other important concepts, and modify some of the bases for determining good engineering practice (GEP) stack height.

Pursuant to section 406(d)(2) of Pub. L. 95–95, all states were required to (1) review and revise, as necessary, their state implementation plans (SIPs) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations and (2) review all existing emission limitations to determine whether any of these limitations have been affected by stack height credit above GEP or any other dispersion techniques. For any limitations so affected, states were to prepare revised limitations consistent with their revised SIPs. All SIP revisions and revised emission limits were to be submitted to EPA within 9 months of promulgation, as required by statute.

Subsequently, EPA issued detailed guidance on carrying out the necessary reviews. For the review of emission limitations, states were to prepare inventories of stacks greater than 65 m in height and sources with emissions of sulfur dioxide (SO_2) in excess of 5,000 tons per year. These limits correspond to the *de minimis* GEP stack height and the *de minimis* SO_2 emission exemption from prohibited dispersion techniques. Sources were exempted from further review if they fell under the grandfathering clause (i.e., in existence before December 31, 1970), if their stack height was less than de minimis stack height (65m), or if their actual height was less than the calculated Good Engineering Practice (GEP) stack height.

The remaining sources were then subjected to detailed review for conformance with the revised regulations. State submissions were to contain an evaluation of each stack and source in the inventory. Florida has concluded that its SIP includes provisions that limit stack height credits and dispersion techniques in accordance with the revised EPA stack height regulations. They also found that no emission limitations have teen affected by stack height credits above GEP or any other prohibited dispersion techniques. Florida has indicated that the documentation is available for review at the State office (listed above).

On October 10, 1986, Florida submitted for EPA's approval documentation for Good Engineering Practice (GEP) Stack Height. EPA proposed to approve the declaration on February 16, 1989 (54 FR 7068). At that time, the public was invited to submit written comments on the proposed action. However, no comments were received. EPA is therefore approving the State's declaration that no emission

limitations were affected by stack height credit above GEP or any other dispersion technique.

On January 22, 1988, the U.S. Court of appeals for the District of Columbia issued its decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Dir. 1988), regarding the Environmental Protection Agency's (EPA s) stack height regulations (50 FR 27892, July 8, 1985); the court upheld most of the rules, but certain provisions were remanded to the EPA for further consideration. Since no sources in Florida have received credit under any of the provisions remanded to EPA, none are affected by the remand.

EPA Review. EPA has reviewed Florida s submittal and concurs with the conclusion that no revisions to Florida's existing source emission limitations are necessary as a result of EPA s revised stack height regulations. Florida has therefore met its obligations under Section 406 of Pub. L. 95-95 for existing source emission limitations. (EPA approved Florida's stack height rules for new sources on February 8, 1989 (54 FR 6125)).

Final Action. EPA approves the declaration by Florida that recent revisions to EPA s stack height regulations do not necessitate SIP revisions for specific sources in this State. EPA proposed to approve the declaration on February 16, 1989 (54 FR 7068).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 14, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter, Sulfur oxides.

Dated: May 31, 1989.

Joe R. Franzmathes,

Acting Regional Administrator.

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

PART 52—[AMENDED]

Subpart K—Florida

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

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

2. Section 52.528 is amended by adding a new paragraph (a) to read as follows:

§ 52.528 Control strategy: Sulfur oxides and particulate matter.

(a) In a letter dated October 10, 1986, the Florida Department of Environmental Regulation certified that no emission limits in the State's plan are based on dispersion techniques not permitted by EPA's stack height rules.

[FR Doc. 89-14218 Filed 6-14-89; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[MS-011; FRL-3600-9]

Approval and Promulgation of Implementation Plans; Mississippi; Stack Height Review

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves a declaration by Mississippi that recent revisions to EPA's stack height regulations do not necessitate source-specific revisions to the State Implementation Plan (SIP). The State was required to review its SIP for consistency within nine months of final promulgation of the stack height regulations. The intended effect of this action is to formally document that Mississippi has satisfied its obligations under Section 406 of the Clean Air Act Amendments of 1977 to review its SIP with respect to EPA's revised stack height regulations. No emission limitations were affected by stack height credit above GEP or any other dispersion technique.

EFFECTIVE DATE: This action will be effective on July 17 1989.

ADDRESSES: Copies of the materials submitted by Mississippi may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW Washington, DC 20460.

Air Programs Branch, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Air Quality Control, Bureau of Pollution, Department of National Resources, P.O. Box 10385, Jackson, Mississippi 39209.

FOR FURTHER INFORMATION CONTACT: Beverly T. Hudson, EPA Region IV Air Programs Branch, at the above listed address, telephone (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: On February 8, 1982 (47 FR 5864), EPA promulgated final regulations limiting stack height credit and other dispersion techniques as required by Section 123 of the Clean Air Act (the Act). These regulations were challenged in the U.S. Court of Appeals for the D.C. Circuit by the Sierra Club Legal Defense Fund, Inc., the Natural Resources Defense Council, Inc., and the Commonwealth of Pennsylvania in *Sierra Club* v. *EPA*, 719 F 2d 436. On October 11, 1983, the court issued its decision, ordering EPA to reconsider portions of the stack height regulations, reversing certain portions, and upholding other portions.

On February 28, 1984, the electric power industry filed a petition for a writ of certiorari with the U.S. Supreme Court. On July 2, 1984, the Supreme Court denied the petition (104 s. CT. 3571), and on July 18, 1984, the Court of Appeals formally issued a mandate implementing its decision and requiring EPA to promulgate revisions to the stack height regulations within six months. The promulgation deadline was ultimately extended to June 27 1985.

Revisions to the stack height regulations were proposed on November 9, 1984 (49 FR 44878), and finalized on July 8, 1985 (50 FR 27892). The revisions redefine a number of specific terms, including "excessive concentration, "dispersion techniques, "nearby, and other important concepts, and modify some of the bases for determining good engineering practice (GEP) stack height.

Pursuant to section 406(d)(2) of Pub. L. 95-95, all states were required to (1) review and revise, as necessary, their state implementation plans (SIPs) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations and (2) review all existing emission limitations to determine whether any of these limitations have been affected by stack height credit above GEP or any other dispersion techniques. For any limitations so affected, states were to prepare revised limitations consistent with their revised SIPs. All SIP revisions and revised emission limits were to be submitted to EPA within 9 months of promulgation, as required by statute.

Subsequently, EPA issued detailed guidance on carrying out the necessary reviews. For the review of emission limitations, states were to prepare inventories of stacks greater than 65 m in height and sources with emissions of sulfur dioxide (SO_2) in excess of 5,000 tons per year. These limits correspond to the *de minimis* GEP stack height and

the *de minimis* SO_2 emission exemption from prohibited dispersion techniques. Sources were exempted from further review if they fell under the grandfathering clause (i.e., in existence before December 31, 1970), if their stack height was less than *de minimis* stack height (65 m), or if their actual height was less than the calculated Good Engineering Practice (GEP) stack height. The remaining sources were then subjected to detailed review for conformance with the revised regulations. State submissions were to contain an evaluation of each stack and source in the inventory. Mississippi has indicated that the documentation is available for review at the State Office (listed above).

On January 30, 1987 Mississippi submitted for EPA's approval documentation for Good Engineering Practice (GEP) Stack Height. EPA proposed to approve the declaration on February 16, 1989 (54 FR 7069). At that time, the public was invited to submit written comments on the proposed action. However, no comments were received. EPA is therefore approving the State's declaration that no emission limitations were affected by stack height credit above GEP or any other dispersion technique, except as the declaration applies to four sources identified below.

On January 22, 1988, the U.S. Court of appeals for the District of Columbia issued its decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Dir. 1988), regarding the Environmental Protection Agency's (EPA's) stack height regulations (50 FR 27892, July 8, 1985); the court upheld most of the rules, but certain provisions were remanded to the EPA for further consideration. Accordingly, EPA is not acting on four sources: Mississippi Power-Daniel; South Mississippi Electric Power, Hattiesburg-Morrow; E.I. Dupont, Delisle-Boilers 1 & 2; and International Paper, Vicksburg, because they currently receive credit under one of the provisions remanded to the EPA. Mississippi and EPA will review these sources for compliance with any revised requirements when EPA completes rulemaking to respond to the *NRDC* remand.

EPA Review. EPA has reviewed Mississippi's submittal and concurs with the conclusion that no revisions to Mississippi's existing source emission limitations are necessary as a result of EPA's revised stack height regulations. Mississippi has therefore met its obligations under section 406 of Pub. L. 95-95 for existing source emission limitations. (EPA approved Mississippi's stack height rules for new sources on September 23, 1987 (52 FR 35704)).

Final Action. EPA approves the declaration by Mississippi that recent revisions to EPA's stack height regulations do not necessitate SIP revisions for specific sources in this State.

The declaration does not apply to: Mississippi Power-Daniel; South Mississippi Electric Power, Hattiesburg-Morrow; E.I. Dupont, Delisle-Boilers 1 & 2; and International Paper, Vicksburg.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 14, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter, Sulfur oxides.

Dated: May 26, 1989.

Joe R. Franzmathes,

Acting Regional Administrator.

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

PART 52—[AMENDED]

Subpart Z—Mississippi

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

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

2. Section 52.1278 is added to read as follows:

§ 52.1278 Control strategy: Sulfur oxides and particulate matter.

In a letter dated January 30, 1987 the Mississippi Department of Natural Resources certified that no emission limits in the State's plan are based on dispersion techniques not permitted by EPA's stack height rules. This certification does not apply to: Mississippi Power-Daniel; South Mississippi Electric Power, Hattiesburg-Morrow; E.I. Dupont, Delisle Boilers 1 & 2; and International Paper, Vicksburg.

[FR Doc. 89-14219 Filed 6-14-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL. 3572-9; [TN-046]

Approval and Promulgation of Implementation Plans, Tennessee; Revisions to the Memphis and Shelby County Portion of the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 7 1986, the State of Tennessee submitted the Memphis and Shelby County regulations (Board Order 17-86) as a revision to the State Implementation Plan (SIP). The regulations for Memphis and Shelby County were originally approved by EPA in 1972 as an appendix to the SIP. Since that time the regulations have been revised several times and today EPA is approving the regulations that are approvable and disapproving the regulations that are unapprovable and taking no action on those regulations that were never approved or disapproved for the State.

DATES: This action will be effective on August 14, 1989 unless notice is received by July 17 1989 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M. Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street, NE., Atlanta, GA 30365.

Division of Air Pollution Control, Tennessee Department of Health and Environment, Customs House 4th Floor, 701 Broadway, Nashville, Tennessee 37219.

Memphis and Shelby County Health Department, Air Pollution Control, 814 Jefferson Avenue, Memphis, Tennessee 38105.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalyn D. Hughes, Air Programs Branch, EPA Region IV at the above address and telephone number (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: In 1967 the Memphis and Shelby County Health Department developed regulations for the control of air pollution. In 1972, the

State of Tennessee submitted its State Implementation Plan (SIP) for the control of air pollution. On May 31, 1972 (37 FR 10842 at 10894) EPA approved the SIP for Tennessee. The SIP contained a section that recognized the Air Pollution Control Section of the Memphis and Shelby County Health Department as the local agency for air pollution control and included a control strategy demonstration along with the Health Department regulations. Since that time, the Memphis and Shelby County Air Pollution Control Section (Memphis) has revised the regulations. Memphis adopted certain portions of the State regulations, revised their old regulations and recodified the air pollution control section of the Memphis and Shelby County Code accordingly.

The new regulations were submitted to EPA by the State of Tennessee as a SIP revision (Board Order 17-86) on July 7 1986. This SIP revision was not processed earlier because it was unclear which Memphis/Shelby County regulations had already been approved as part of the Tennessee SIP Also, EPA had to determine if the previous control strategy demonstrations were adequate in protecting the National Ambient Air Quality Standards (NAAQS). Once the federally approved Memphis/Shelby County portion of the Tennessee SIP was compiled and the previous control strategy demonstrations were deemed adequate, EPA decided to approve the Memphis/Shelby regulations as a transfer of enforcement authority from the State to the local. The following conditions and conclusions were used to arrive at this decision:

1. The local regulations must be equal to the corresponding federally approved State regulations.

2. The local regulations cannot be treated as separable from the SIP which the State submits and implements, but must be considered part of it.

3. Tennessee State law requires that the local regulations be equivalent to or not less stringent than the corresponding State regulation; therefore, Tennessee must certify to EPA that each regulation has been reviewed by the State and found to meet this requirement.

4. Tennessee must retain overall authority and responsibility for developing and implementing, including enforcing, the SIP

EPA compared the federally approved State regulations and the federally approved Memphis regulations to determine the approvability of the Memphis regulations. A summary of the review follows.

These sections are approvable in their entirety:

Section 16-47—*Abbreviations, Acronyms & Symbols*
Section 16-48—*Words, Phrases Substituted in State Regulations Adopted by Reference*
Section 16-50—*Open Burning*
Section 16-51—*Severability of Parts of Articles*
Section 16-56—*Notice; Citation; Injunctive Relief*
Section 16-57—*Penalties, Misdemeanor, Civil, Noncompliance*
Section 16-58—*Variances*
Section 16-59—*Emergency Powers of Health Officer*
Section 16-71—*Created; Membership; Term of Office; Jurisdiction; Hearings; Appeals*
Section 16-79—*Nonprocess Emission Standards* (State regulation 1200-3-6)
Section 16-80—*Volatile Organic Compounds* (State regulation 1200-3-18)
Section 16-84—*Particulate Matter from Incinerators*
Section 16-85—*Required Sampling, Recording and Reporting* (State regulation 1200-3-10)
Section 16-86—*Methods of Sampling and Analysis* (State regulation 1200-3-12)
Section 16-87—*Limits on Emissions due to Malfunctions, Startups and Shutdowns* (State regulation 1200-3-20)
Section 16-89—*Fugitive Dust*
Section 16-90—*General Alternative Emission Standards* (State regulation 1200-3-21)
Section 16-91—*Lead Emission Standards* (State regulation 1200-3-22)

Sections 16-76 and 16-81 are the *New Source Performance Standards* and *Hazardous Air Contaminants*, respectively. These standards, which are not part of the SIP are subdelegated to Memphis by the State.

In Section 16-77 *Construction and Operating Permits* (State regulation 1200-3-9) all portions are approvable except the following rules which are not approvable because they are inconsistent with EPA regulations and policies:

1200-3-9-.01(3)
1200-3-9-.01(4)(o)(2)

No action will be taken on the following because they are not part of the federally approved regulations for the State:

1200-3-9-.01(4)(b)(6) the last phrase
1200-3-9-.02(1)-(3), (6)-(10) and the last section of (5)
1200-3-9-.03(2) the last sentence
1200-3-9-.03(5)

In Section 16-82, *Sulfur Oxide Emissions* (State regulation 1200-3-14), these rules are approvable because they are identical to the federally approved State regulation:

1200-3-14-.01
1200-3-14-.03(1)-(5) and (8)-(9)

No action will be taken on the following rules because they are not part of the federally approved State regulations:

1200-3-14-.02
1200-3-14-.03(5) and (6)

Section 16-88, *Nuisance Abatement*, was originally approved as part of the SIP in 1972. Since that time Memphis has added a paragraph (b) dealing with odor pollution which EPA will not take action on at this time. Paragraph (a) was approved and is reapprovable.

In Section 16-83, *Visible Emissions* (State regulation 1200-3-5), these are approvable because they are part of the federally approved State regulation:

1200-3-5-.01 (1) and (4)
1200-3-5-.03 (1)
1200-3-5-.04

No action will be taken on the following rules because they are not part of the federally approved State regulations:

1200-3-5-.01 (2) and (3)
1200-3-5-.02
1200-3-5-.03(2)
1200-3-5-.05

In Section 16-78, *Process Emissions Standards* (State regulation 1200-3-7), these rules are approvable because they are federally approved rules for the State:

1200-3-7-.01
1200-3-7-.02
1200-3-7-.03(1)
1200-3-7-.04 (1) and (2) except the last sentence
1200-3-7-.05
1200-3-7-.06
1200-3-7-.07(1)
1200-3-7-.08
1200-3-7-.10
1200-3-7-.11
1200-3-7-.12

No action will be taken on the following rules because they are not federally approved for the State:

1200-3-7-.03(2)
1200-3-7-.04(2) the last sentence
1200-3-7-.07(2)—(5)
1200-3-7-.09

Section 16-49, *Ambient Air Quality Standards* (State regulation 1200-3-3) is approvable in its entirety, except for the

Note: EPA Region IV notified both the Tennessee and Memphis agencies of the SIP deviations that have been identified within the Volatile Organic Compounds Regulation (Section 16-80) and the need for their correction in a letter dated November 9, 1987. The deviations, however, do not affect the approvability of the Volatile Organic Compounds Regulation for Memphis because approvability of the local regulations is based on a transfer of enforcement authority of federally approved regulations, which include the Volatile Organic Compounds Regulation, from the State to the local. Once Tennessee has corrected these deviations identified by EPA, Memphis will adopt the corrected regulation by reference.

last sentence in 1200-3-3-.05, on which no action will be taken.

In Section 16-48, *Definitions*, all the definitions are identical to the federally approved State regulations except for the definitions of modification, new source and new sulfuric acid plant. These definitions, however, were found to be equivalent to the State's definitions and are federally approvable.

Final Action

Since the Memphis regulations (Board Order 17-86) are consistent with EPA policy and requirements, they are hereby approved except for the following rules that are disapproved:

1200-3-9-.01(3)
1200-3-9-.01(4)(o)(2)

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from date of publication]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Regulatory Process

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA must assess the impact of proposed rules on small entities. These rules are equivalent to the federally approved State regulations and maintain the status quo. Sources have not been adversely affected by the State regulations; therefore the conclusion can be drawn that small sources in Memphis and Shelby County will not be adversely affected by this decision.

The Office of Management and Budget has waived review of this action, normally required under Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: April 24, 1989.

Lee A. DeHihns, III,

Acting Regional Administrator.

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

PART 52—[AMENDED]

Subpart RR—Tennessee

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

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

2. Section 52.2220 is amended by adding paragraph (c)(89) to read as follows:

§ 52.2220 Identification of plan.

(c)

(89) Revised Memphis and Shelby County regulations (Board Order 17-86) submitted on July 7, 1986.

(i) Incorporation by reference.

(A) Memphis and Shelby County regulations, Board Order 17-86, which became State-effective June 18, 1986. The regulations that are approved are as follows:

Sections 16-46
Sections 16-47
Sections 16-48
Sections 16-49 except for Rule 1200-3-3-.05 (the last sentence)
Sections 16-50
Sections 16-51
Sections 16-56
Sections 16-57
Sections 16-58
Sections 16-59
Sections 16-71
Sections 16-77 except for Rules 1200-3-9.01(3); 1200-3-9-.01(4)(b)(6)(the phrase, .except the activities of any vessel."); 1200-3-9-.01(4)(o)(2); 1200-3-9-.02(1)-(3),(6)-(10) and the last sentence of (5); 1200-3-9-.03(2)(the last sentence), .03(2)(a), and .03(2)(b)
Sections 16-78 except for Rules 1200-3-7-.03(2); 1200-3-7-.04(2)(the last sentence); 1200-3-7-.07(2)-(5); 1200-3-7-.09
Sections 16-79
Sections 16-80
Sections 16-82 except for Rules 1200-3-14-.02; 1200-3-14-.03(5) and (6)
Sections 16-83 except for Rules 1200-3-5-.01(2) and (3); 1200-3-5-.03(2)
Sections 16-84
Sections 16-85
Sections 16-86
Sections 16-87
Sections 16-88 except paragraph(b)
Sections 16-89
Sections 16-90
Sections 16-91

(B) Letter of July 7, 1986, from the Tennessee Department of Health and Environment.

(ii) Other material—none.

3. A new § 52.2229 is added to read as follows:

§ 52.2229 Rules and regulations.

(a) The following portions of the revised Memphis and Shelby County regulations submitted on July 7 1986, are disapproved because they are inconsistent with EPA policy and requirements:

16-77 Rules 1200-3-9-.01(3); 1200-3-9-.01(4)(o)(2)

(b) [Reserved]

[FR Doc. 89-14154 Filed 6-14-89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 60

[FRL-3602-5]

Standards of Performance for New Stationary Sources; Surface Coating of Plastic Parts for Business Machines; Clarification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, clarification.

SUMMARY: This notice clarifies a final rule on standards of performance for new stationary sources for surface coating of plastic parts for business machines which appeared at page 2676 in the **Federal Register** of Friday, Janury 29, 1988 (53 FR 2676).

This action is necessary in order to clarify that electromagnetic interference and radio frequency interference (EMI/RFI) shielding coatings that are applied to the surface of plastic business machine parts to attenuate EMI/RFI signals were intended to be exempt from the regulation.

EFFECTIVE DATE: January 29, 1988.

FOR FURTHER INFORMATION CONTACT: Doug Bell or Laura Butler, Standards Development Branch, ESD (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5568 or (919) 541-5267

SUPPLEMENTARY INFORMATION: The EMI/RFI shielding coatings were exempted because none of the options studied provided volatile organic compound emission control at a reasonable cost. The definition of prime coat specifically excluded EMI/RFI coatings to avoid erroneous consideration of EMI/RFI coatings as prime coatings.

The EMI/RFI shielding coatings were not specifically excluded from the definitions for color coat, texture coat, and touch-up coat in the regulation promulgated on January 29, 1988 (53 FR 2676) since there were not cases known where EMI/RFI shielding coatings serve principally to affect color, gloss, or texture, or to touch up a part. The EMI/RFI coatings principally serve a functional purpose, not a decorative purpose.

The lack of an exclusion of EMI/RFI coatings from these definitions could cause confusion in cases where EMI/RFI coating is the only coating applied to the interior of a part, since the EMI/RFI coating could affect the final appearance (color and gloss) of the coated part. Therefore, the definitions for color coat, texture coat, and touch-up coat are being revised to specifically exempt EMI/RFI coatings.

The definition for EMI/RFI shielding coating is also included in order to specify the material exempted by this clarification.

Date: June 7 1989.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

For reasons set out in the preamble, 40 CFR Part 60, § 60.721 is amended as follows:

PART 60—[AMENDED]

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

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601.

2. Section 60.721(a) is amended by revising the defintions, "color coat, "texture coat, and "touch-up coat" and by adding the definition for "electromagnetic interference/radio frequency interference (EMI/RFI) shielding coating" in alphabetical order to read as follows:

§ 60.721 Definitions.

(a)

"Color coat" means the coat applied to a part that affects the color and gloss of the part, not including the prime coat or texture coat. This definition includes fog coating, but does not include conductive sensitizers or electromagnetic interference/radio frequency interference shielding coatings.

"Electromagnetic interference/radio frequency interference (EMI/RFI) shielding coating means a conductive coating that is applied to a plastic substrate to attenuate EMI/RFI signals.

"Texture coat" means the rough coat that is characterized by discrete, raised spots on the exterior surface of the part. This definition does not include conductive sensitizers or EMI/RFI shielding coatings.

"Touch-up coat" means the coat applied to correct any imperfections in the finish after color or texture coats have been applied. This definition does not include conductive sensitizers or EMI/RFI shielding coatings.

[FR Doc. 89-14263 Filed 6-14-89; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 21

[General Docket No. 87-136; FCC No. 89-148]

Amendment To Reallocate the Local Television Transmission Service From the 11.7-12.2 GHz Band to the 14.2-14.4 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission released a Notice of Proposed Rule Making (NPRM) May 18, 1987 inviting comments on a proposal to reallocate the local television transmission service (LTTS) from 11.7-12.2 GHz to 14.0-14.5 GHz. However, in the NPRM the Commission limited its proposal to the band 14.2-14.4 GHz due to other government and non-government use of the 14.0-14.2 and 14.4-14.5 GHz portions of the band. The 11.7-12.2 and 14.0-14.5 GHz bands are also used on a primary basis by the fixed satellite service (FSS). LTTS is a secondary user of the 11.7-12.2 GHz band. This action orders that Parts 2 and 21 of the Commission Rules be amended to reflect the reallocation of LTTS to the 14.2-14.4 GHz band. The intent of this action is to eliminate the burden of frequency coordination for LTTS and the FSS.

EFFECTIVE DATE: July 17 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Raymond LaForge, telephone (202) 653-8117

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, adopted May 9; Released June 1, 1989.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 233), 1919 M Street NW Washington, D.C. The complete text of this decision may also be purchased from the Commission s copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW Suite 140, Washington, DC 20037

Summary of Notice

1. The Commission released a Notice of Proposed Rule Making (NPRM) on May 18, 1987 proposing to reallocate the LTTS from the FSS downlink band at 11.7-12.2 (11.7) GHz to the FSS uplink band at 14.2-14.4 (14.2) GHz. The Commission found that frequency coordination efforts at 11.7 GHz were becoming increasingly burdensome as new satellite earth stations are built. The Commission stated that the reallocation of LTTS to 14.2 GHz should relieve the coordination problem, in that frequency coordination would not be necessary in the 14.2 GHz uplink band, because the receivers are located at the satellite in geostationary orbit, and the likelihood of interference over that long distance to the satellite is negligible.

2. Comments were mixed on the proposed rule. LTTS interests raised several arguments as to why the 11.7 GHz band should be maintained. They were also concerned with the reduction in spectrum as proposed by the Commission. FSS interests and microwave equipment manufacturers all support the reallocation of LTTS to the 14.2 GHz band because of the existing burdens to coordinate frequencies at 11.7 GHz.

3. Although reallocation of LTTS to the 14.2 GHz band would result in a net loss in spectrum, we believe that the reallocation would be an improvement for LTTS. We estimate that the number of new satellite earth stations will be in the thousands over the next several years rendering the 11.7 GHz band unusable for LTTS. Although the proposed reallocation results in a net loss of 300 MHz for LTTS (500 to 200 MHz), we believe that it will actually provide a substantial benefit to LTTS. As the proliferation of earth stations continues to occur, the 14.2 GHz band should remain 300 MHz of usable spectrum; however, the 11.2 GHz band, although it consists of 500 MHz, will most likely be unavailable to LTTS as FSS primary users continue to expand. Thus, the risk of interference to LTTS should be reduced by the reallocation. We have carefully considered all aspects of this situation and we believe that although the 11.7 GHz band was once suitable for LTTS on a secondary basis, it no longer is able to

accommodate LTTS due to the rapid growth of earth stations at 11.7 GHz. In fact the band is already unusable in many parts of the country.

4. We also have reviewed the need for a transition period for LTTS users to acquire new equipment and to phase out existing 11.7 GHz equipment. Since LTTS operates in the 11.7 GHz band on a secondary basis we will permit LTTS users to use the 11.7–12.2 GHz band indefinitely so that they will be able to use existing equipment for its normal life span. This should also provide an opportunity for manufacturers to design and build 14 GHz receivers for use by LTTS operators. In light of these considerations we are grandfathering LTTS operations in the 11.7–12.2 GHz band. However, in accordance with LTTS's secondary status, if interference is caused to the fixed satellite service, the LTTS operator shall either immediately remedy the interference or cease operation. We are retaining the requirement for VSAT operators to maintain an up-to-date list of earth stations and to provide a point-of-contact to facilitate coordination of secondary LTTS operations.

5. Further, we have carefully reviewed the power limitations that are necessary to protect the FSS satellite receivers in the geostationary orbit. We continue to believe that the limits established in the international *Radio Regulations* are appropriate to protect FSS from harmful interference caused by LTTS transmissions and yet provide sufficient power for LTTS to operate effectively. Therefore, we believe the limit of +45 dBW is correct. However, we are not permitting operations within 1.5 degrees of satellites in the geostationary orbit. This should allow sufficient power for LTTS to establish links and yet afford adequate protection for the FSS receiver at the satellite.

6. We have also considered the proposal made by Conus Communications Inc. (Conus) requesting blanket authority for each licensee of a 14 GHz video satellite uplink to use the 14.2 GHz band, on a secondary basis, for terrestrial transmission of video signals. Although this proposal would allow operators of video uplinks to feed material to and from satellite facilities, it would also limit LTTS use of the band. We can not evaluate the merits of the Conus proposal unless we invite public comment on their specific proposal. Therefore, we find the Conus proposal to be beyond the scope of this proceeding.

7 Accordingly, *It is ordered,* That pursuant to the authority of sections 4(i), 301, and 303(r) of the Communications Act of 1934, as amended [47 U.S.C. 4(i), 301, and 303(r)], Parts 2 and 21 of the Commission's Rules, ARE AMENDED to reflect the changes discussed in this *Order.*

8. *It is further ordered* That this *Order* will become effective July 17 1989.

9. *It is further ordered* that this proceeding is *terminated.*

List of Subjects

47 CFR Part 2

Frequency allocations.

47 CFR Part 21

Communications equipment.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Parts 2 and 21 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

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

1. The authority citation in Part 2 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303.

2. Section 2.106, the Table of Frequency Allocations, is amended by revising columns 4, 5 and 6 in the table for the 14.2–14.4 GHz bands as follows:

§ 2.106 Table of Frequency Allocations.

United States table		FCC use designators
Government	Non-Government	
Allocation GHz (4)	Allocation GHz (5)	Rule part(s) (6)
14.2–14.3	Fixed-satellite (Earth-to-space). Mobile except aeronautical mobile.	Satellite communications (25). Domestic public fixed (21).
US287	US287	
14.3–14.4	14.3–14.4 Fixed-satellite (Earth-to-space). Mobile except aeronautical mobile.	Satellite communications (25). Domestic public fixed (21).
US287	US287	

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

3. The authority citation in Part 21 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303.

§ 21.801 [Amended]

4. Section 21.801(a) is amended by revising the list of available frequencies for assignment to television pickup and television non-broadcast pickup stations in the local television transmission service and adding a sentence to footnote 5 as follows:

6,425 to 6,525 MHz.[6]
11,700 to 12,200 MHz.[3]
13,200 to 13,250 MHz.[1]
14,200 to 14,400 MHz.[5]
21,200 to 22,000 MHz.[1, 2, 4, 5]
22,000 to 23,600 MHz.[1, 2, 5]
31,000 to 31,300 MHz.[7]

[FR Doc. 89–14059 Filed 6–14–89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87-04; Notice 5]

RIN 2127-AC 73

Federal Motor Vehicle Safety Standards—Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; partial response to petitions for reconsideration; delay of effective date.

SUMMARY: In a final rule published in the **Federal Register** (53 FR 7931) on March 11, 1988, NHTSA amended Standard No. 121, *Air Brake Systems,* to clarify the standard's parking brake

This frequency band is shared with fixed and mobile stations licensed under Part 21 and other parts of the Commisssion's Rules.

[2] This frequency band is shared with Government stations.

[3] This frequency band is shared, on secondary basis, with stations in the broadcasting-satellite and fixed-satellite services.

This frequency band is shared with stations in the earth-exploration satellite service.

Assignments to common carriers in this band are normally made in the segments 21,200–21,800 MHz and 22,400–23,800 MHz and to operational fixed users in the segments 21,800–22,400 MHz and 23,000–23,600 MHz. Assignments may be made otherwise only upon a showing that interference free frequencies are not available in the normally assigned band segments. The maximum power for the local television transmission service in the 14.2–14.4 GHz band is +45 dBW except that operations are not permitted within 1.5 degrees of the geostationary orbit.

This band is co-equally shared with mobile stations licensed pursuant to Parts 74, 78 and 94 of the Commission's rules.

Use of this spectrum for direct delivery of video programs to the general public or multi-channel cable distribution is not permitted.

requirements. The amendments permitted manufacturers to comply with the new requirements as an alternative to complying with the requirements being superseded effective April 11, 1988, and required mandatory compliance with those requirements effective September 7 1988 (180 days after publication). In partial response to two petitions for reconsideration, NHTSA issued a notice on September 9, 1988, amending the standard by extending for one year (i.e., until September 7 1989) the period for which manufacturers may comply with either the earlier or new requirements. Today's notice amends the standard by extending this period for one more year (i e., until September 7 1990). The agency expects to provide a response to the two petitions for reconsideration later this year.

DATES: The amendments made by this rule are effective July 17 1989. Petitions for reconsideration must be received by July 17 1989.

ADDRESSES: Petitions for reconsideration should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Shadle, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW Washington, DC (202-366-5273).

SUPPLEMENTARY INFORMATION: In a final rule published in the Federal Register (53 FR 7931) on March 11, 1988, NHTSA amended Standard No. 121, *Air Brake Systems*, to clarify the standard's parking brake requirements. The amendments required actuation of a mechanical means for holding the parking brakes within three seconds after operation of the parking brake control. (For trailers, such actuation was required within three seconds after venting to the atmosphere of the front supply line connection is initiated.) In addition, vehicles were required to be capable of meeting requirements related to parking brake retardation force within the three second period. The amendments also required that the grade holding test (or alternative drawbar test) be met with only the mechanical means of holding the parking brakes in operation. The amendments required mandatory compliance effective September 7 1988 (180 days after publication), while permitting manufacturers to comply with the new requirements as an alternative to complying with the requirements being superseded effective April 11, 1988.

The agency stated in the March 1988 notice that it believed all parking brakes currently being sold complied with the amendments being adopted. The agency also stated its belief that since any necessary certification could be accomplished by engineering analysis and simple tests, 180 days provided a sufficient time for that purpose.

NHTSA received two petitions for reconsideration. One of the petitioners, Volvo GM Heavy Truck Corporation, requested that the agency rescind the application of the timing amendment to tandem trucks with spring brakes, and that one of the specified conditions for the timing tests (initial reservoir system pressure of 100 psi) be removed. That company asserted that compliance with the standard as amended is not practicable and is unreasonable Volvo GM suggested that NHTSA was generally correct in stating that the rule did not affect parking brakes currently being sold, but that the agency had overlooked a significant segment of the vehicle population, heavy tandem trucks. That company submitted test results for two heavy trucks. According to Volvo GM, "one exceeds the limit and the other does not contain compliance margins sufficient to accommodate manufacturing tolerances. That company also argued that the test condition which specifies initial reservoir system pressure of 100 psi is design restrictive.

The other petitioner, Navistar International Transportation Corporation, stated that it has confirmed that in its parking brake systems the air pressure drops to zero within the allotted time. That company stated that based upon this fact and the agency's statements in the preamble, it believes that its vehicles comply with the timing requirements of the final rule. Navistar International added, however, that after actuation of the control knob, experience has shown that as much as one revolution of the braked wheels may be necessary to permit the brake shoes to be sufficiently energized to reach peak torque. That company stated that this "wrap up" process can take several seconds, depending on brake characteristics and driver finesse. Navistar International stated that should this "wrap up" movement not be considered permissible by the agency, it requested that its submission be considered a petition for reconsideration of the final rule, to permit the "wrap up" movement.

As is clear from the preamble to the March 1988 final rule, NHTSA did— not believe that the amendments would require changes in any parking brakes currently being sold. NHTSA is therefore concerned that the petitions raise the possibility that, contrary to the agency's belief in establishing the March 1988 final rule, some current parking brakes may not comply with the amendments that become effective, on a mandatory basis, on September 7 1989. The agency has not yet completed its analysis of the two petitions for rulemaking due to the complexity of the issues. Although NHTSA expects to respond to the petitions by the end of the year, mandatory compliance with the new requirements is scheduled to become effective before then, on September 7 1989. The Motor Vehicle Manufacturers Association, in a February 20, 1989 letter to NHTSA, indicated that in the absence of either an immediate clarification of the rule, or a delay in the effective date of the mandatory standard, the manufacturers' ability to determine compliance with the standard as written could be seriously undermined.

Accordingly, in partial response to the two petitions for reconsideration, NHTSA has decided to delay, for one additional year, the time the amendments become effective on a mandatory basis. This delay in effective date will permit the agency to complete its analysis of the arguments made by the petitioners, and provide a further response to the petitions. Thus, manufacturers may continue until September 7 1990, to comply with either the March 1988 requirements or the requirements that were superseded by that notice.

NHTSA finds for good cause that it is in the public interest to establish an effective date 30 days after the publication of this notice for the amendments made by today's notice. The amendments impose no new requirements but instead increase manufacturer flexibility by extending the time they may comply with the alternative parking brake requirements. As discussed above, the new September 7 1990, effective date will give sufficient time for the agency to complete its analysis of the arguments made by the petitioners, and provide a further response to the petitions. The new compliance date will also provide manufacturers with an adequate opportunity to take any steps needed to comply following the agency's forthcoming decisions on the petitions for reconsideration.

The agency has analyzed these amendments and determined that they are neither "major" within the meaning

of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The agency has determined that the economic effects of the amendments are so minimal that a full regulatory evaluation is not required. Since the amendments impose no new requirements but simply add compliance alternatives until September 7 1990, any cost impacts would be in the nature of slight, nonquantifiable cost savings.

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the amendments will not have a significant economic impact on a substantial number of small entities. For the reasons discussed above, the only impacts of the amendments will be in the nature of slight, nonquantifiable cost savings. Thus, neither manufacturers of motor vehicles, nor small businesses, small organizations, and small governmental units which purchase motor vehicles, will be significantly affected by the amendments. Accordingly, no regulatory flexibility analysis has been prepared.

The agency has also analyzed this rule for the purpose of the National Environmental Policy Act, and determined that it will not have any significant impact on the quality of the human environment.

Finally, this rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407· delegation of authority at 49 CFR 1.50.

§ 571.121 [Amended]

2. Standard 5.6.3 of § 571.121 is revised to read as follows:

S5.6.3 *Application and holding.* Each parking brake system shall meet the requirements of S5.6.3.1 through S5.6.3.4, except that, at the option of the manufacturer, vehicles manufactured before September 7 1990 may meet the requirements specified in S5.6.3.5.

S5.6.3.1 The parking brake system shall be capable of achieving the minimum performance specified either in S5.6.1 or S5.6.2 with any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (except failure of a component of a brake chamber housing).

S5.6.3.2 For trucks and buses, with an initial reservoir system pressure of 100 psi and, if designed to tow a vehicle equipped with air brakes, with a 50 cubic inch test reservoir connected to the supply line coupling, at all times after three seconds from the time of actuation of the parking brake control, the parking brake system shall achieve the minimum parking retardation performance specified in S5.6.3.1. For trailers, with an initial supply line pressure of 100 psi and, if designed to tow a vehicle equipped with air brakes, with a 50 cubic inch test reservoir connected to the supply line coupling, at all times after three seconds from the time venting to the atmosphere of the front supply line connection is initiated, the parking brake system shall achieve the minimum retardation performance specified in S5.6.3.1.

S5.6.3.3 A mechanical means shall be provided which is capable, with zero air pressure and zero fluid pressure in the vehicle and without electrical power, of holding the parking brake application at a level meeting the minimum parking retardation performance specified in S5.6 3.1.

S5.6.3.4 For trucks and buses, with an initial reservoir system pressure of 100 psi and, if designed to tow a vehicle equipped with air brakes, with a 50 cubic inch test reservoir connected to the supply line coupling, no later than three seconds from the time of operation of the parking brake control, the mechanical means referred to in S5.6.3.3 shall be actuated. For trailers, with an initial supply line pressure of 100 psi and, if designed to tow a vehicle equipped with air brakes, with a 50 cubic inch test reservoir connected to the supply line coupling, no later than three seconds from the time venting to the atmosphere of the front supply line connection is initiated, the mechanical means referred to in S5.6.3.3 shall be actuated.

S5.6.3 5 *(Optional requirement for vehicles manufactured before September 7 1990)* The parking brake system shall be capable of achieving the minimum performance specified either in S5.6.1 or S5.6.2 with any single leakage-type failure, in any other brake system, of a part designed to contain compressed air or brake fluid (except failure of a component of a brake chamber housing). Once applied, the parking brakes shall be held in the applied position solely by mechanical means.

Issued on June 9, 1989.

Jeffrey R. Miller,

Acting Administrator.

[FR Doc. 89-14206 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 90515-9115]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Response to public comments on 1989 fishery management measures.

SUMMARY: NOAA responds to written comments received from the public on the notice of 1989 management measures for the ocean salmon fisheries published in the **Federal Register** on May 8, 1989. The comments concern a proposal by some California commercial troll fishermen to modify commercial salmon seasons south of Horse Mountain, California.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Northwest Region, NMFS), 206-526-6140, or Rodney R. McInnis (Southwest Region, NMFS), 213-514-6199.

SUPPLEMENTARY INFORMATION: Management measures for the ocean salmon fisheries for 1989 were announced in a notice published in the **Federal Register** on May 8, 1989 (54 FR 19798). These management measures were adopted by the Pacific Fishery Management Council (Council) at its April 4-7 meeting and were submitted to the Secretary for his review, approval, and implementation by regulatory notice. After a full review of all the issues, and a determination that the Council's recommended measures were consistent with the Fishery Management Plan for Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California (FMP), the Magnuson Act, and other applicable law, the Secretary approved and implemented the season measures effective May 1. The three west coast states also adopted

regulations for their marine waters consistent with the Federal regulations.

During Council proceedings, commercial ocean salmon fishermen from California opposed the Council's proposed measures for managing Klamath River fall chinook salmon because of the restrictions these measures would impose on ocean trolling south and north of the Klamath Management Zone (KMZ). The trollers particularly objected to the season structure (quotas, areas, openings-closings) adopted by the Council because it included extensive closures both to the south and north of the KMZ (Orford Reef Red Buoy, Oregon, to Horse Mountain, California) that were considered necessary by the Council to allow a modest level of fishing within the KMZ. By the end of the Council's April meeting, certain commercial ocean fishermen requested total closure of the KMZ in order to provide maximum fishing opportunity outside the KMZ. The Council considered this option, but chose to moderate adverse socio-economic impacts on local fishermen in the KMZ by allowing some fishing time in the zone and spreading closures over a greater area while still meeting the spawning escapement rate required by Amendment 9 (implemented effective May 1). (It is noted that at its April meeting, the Council considered the option of a one week, coastwide closure during late June, but did not adopt it. This option was also one of the proposed management alternatives in preseason documents provided for public comment before the meeting.)

The season measures implemented May 1 followed the usual procedure required by the framework FMP and implementing regulations by inviting public comments for 15 days after promulgation. Because of the controversial aspects of the Council's management decisions for Klamath fall chinook salmon, the Secretary invited particular comment on this issue.

During the comment period, several letters were received from California commercial trollers' representatives requesting a redistribution of salmon fishing opportunity among California ports as a means of reallocating economic benefits and costs. The proposed redistribution of fishing opportunity involved closing commercial salmon fishing for seven days (June 17–23) in the area from Horse Mountain, California, to the U.S.-Mexico border to eliminate eight days of the scheduled closure set for July 15–28 in the area from Horse Mountain to Point Arena, California. The trollers stated that their proposed closure would distribute more fairly the burden of conserving Klamath River salmon stocks within California and would reduce the economic hardship on small-scale fishermen operating around the northern California ports of Fort Bragg and Shelter Cove, while still fulfilling the conservation goals for the Klamath River chinook salmon. The measures suggested would not, according to the proponents, reduce fishing opportunities for fishermen from Oregon or Washington. The California commenters were also concerned that the scheduled extended closures in the Fort Bragg/Shelter Cove area would result in severe crowding on those fishing grounds to the south that will still be open to fishing, as well as posing greater risk to smaller Fort Bragg boats that might attempt to travel to open southern areas during rough sea conditions.

The California trollers' representatives estimated that their proposal to redistribute the necessary closures would increase the Fort Bragg/Shelter Cove area catch by some 30,400 fish, and that the concurrent (coastwide) closure would reduce shifts in fishing efforts and allow more orderly product flow to markets due to the shorter closed period. NMFS biologists projected that an overall catch reduction of nearly 24,000 salmon to California trollers would result if the adjustment were accepted. The trollers who could be affected by such a reduction were optimistic that a loss of that magnitude would not occur, and in any case, were willing to accept the risk of overall lower catches to redress what they perceived as an imbalance within the California catch distribution.

In its comments, a major association of California trollers indicated that, because the Council adopted the final option for the troll industry only minutes before adjourning its April meeting, it was unable to review the economic impacts of the combined 45 closed days on the area immediately south of the KMZ. Additionally, the association alleges that it was not fully apprised at the Council's April 7 meeting as to the projected Klamath impacts south of Point Arena. This association indicates that its membership unanimously supports a 7-day coastwide closure, which would eliminate 8 of the scheduled 45 days closed between Horse Mountain and Point Arena, and that this position is consistent with an earlier formal decision of the association s board of directors.

Letters supporting the California trollers proposal were received from several Federal and State legislators and from local community officials.

Subsequent to its April meeting, the Council was requested by the California trollers to conduct a meeting by telephone conference call to reconsider the issue. On April 28, the Council Chairman determined that a majority of the Council members felt a meeting was unnecessary, and the telephone conference was therefore not held. The decision not to reconsider this issue was based on the Council's determination that no new information had become available since the April meeting, and that the issue had been sufficiently discussed by the Council and commented on by the public at that time.

The NOAA Assistant Administrator has reviewed all comments received on the season measures and was impressed that the salmon fishermen from the Fort Bragg and Shelter Cove areas presented a case for their proposal that was not objected to by fishermen who would be adversely affected by the specific season changes. The trollers' objections to the Council's decisions and to the season setting process deserves careful consideration by the agency and by the Council, particularly their belief that substantial improvements should be made in the annual procedure used by the Council to resolve user conflicts and to negotiate compromises necessary in allocating limited salmon resources.

The Council clearly was faced with a very difficult and complex problem in developing the 1989 salmon regulations. Multiple, and to a significant degree, incompatible management objectives had to be addressed: meeting the spawning escapement rate required by Amendment 9, satisfying in-river fisheries' needs, and addressing the social and economic needs of all coastal commercial and recreational fishermen and associated community businesses. Under these circumstances, necessary and numerous compromises still will not result in all users being fully accommodated. NOAA Fisheries believes that the Fishery Management Councils have the responsibility, under the Magnuson Act, for resolving these very difficult issues. Council decisions regarding fishery allocations or other measures will be supported by the Secretary unless evidence is presented to show that a Council decision is based on incorrect information, is inconsistent with an approved and implemented FMP or amendment, is reached in a manner denying the public reasonable opportunity for input, or violates the national standards for fishery conservation and management, other provisions of the Magnuson Act, or other applicable law. The agency has

encouraged the California trollers and coastal communities to work within the Council forum and process to resolve differences as early as possible in the annual season setting process. While the Council was not convinced to adopt the California trollers' suggested season change, considerable support was developed for their position which should be considered in any subsequent Council action.

In considering the California trollers' request, NOAA Fisheries reviewed the Secretary's authority to modify the Council's season measures. According to the framework FMP the Secretary is limited to accepting or rejecting in total the Council's preseason recommendations for the annual management measures. If the Secretary rejects the Council's recommendations, the Council must be advised of the rejection and its basis as soon as possible so that it may reconsider its proposal. While this constraint is not a specific part of the FMP's implementing regulations, it is binding on the Secretary as an approved requirement of the FMP The Secretary is able to depart from the recommendations of the Council without Council consent only by exercising his authority under Sections 304(c) [Secretarial amendment] or 305(e) [Secretarial emergency action] of the Magnuson Act. Any action pursuant to section 305(e) must be accompanied by a showing that an emergency exists involving the fishery. While the lengthy closures in the Fort Bragg area represent problems for the small-scale fishermen of this community, the information thus far presented by the Council and the public is insufficient to support a finding that an emergency exists in the fishery.

Use of the inseason management provisions at 50 CFR 661.21 (b) and Appendix section III.B. by the agency in responding to the troller's request was considered. These provisions give the Regional Director the authority to modify the regulations during the season to meet the Council's management objectives under limited circumstances following consultation with the Chairman of the Council and the appropriate State Directors of Fisheries. It was concluded that use of the inseason management authority is not appropriate in this case. Neither the Secretary nor his designee, the Regional Director, can take an action during the season which they could not have taken before the season without the consent of the Council. To interpret the Regional Director's authority otherwise would undermine the clear expression of Council intent to restrict the Secretary's authority without the Council's consent to the use of sections 304(c) or 305(e) of the Magnuson Act. This principle is no less binding during the season than at the beginning of the season, before the annual management measures have been approved.

For the reasons indicated above, the Council's season measures will remain unchanged in response to the California trollers' request.

Dated: June 9, 1989.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89-14213 Filed 6-12-89; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 81132-9033]

Groundfish of the Gulf of Alaska; Notice of Closure

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the portion of the total allowable catch (TAC) of sablefish allocated to hook-and-line gear in the West Yakutat District of the Eastern Regulatory Area of the Gulf of Alaska has been reached. The Secretary of Commerce (Secretary) is prohibiting further retention of sablefish by longline vessels fishing in this district from 12:00 noon, Alaska Daylight Time (ADT), on June 9, 1989, through December 31, 1989.

DATES: This notice is effective from 12:00 noon, ADT, on June 9, 1989 until midnight, Alaska Standard Time, December 31, 1989.

ADDRESSES: Comments should be addressed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker, Fishery Management Biologist, 907-586-7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR Part 672. Section 672.20(a) of the regulations establishes an optimum yield (OY) range of 116,000-800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. Total allowable catches (TACs) for target species and species groups are specified annually within the OY range and apportioned among the regulatory areas and districts.

Section 672.24(b)(1) of current regulations restricts the hook-and-line catch of sablefish in the Eastern Regulatory Area to 95 percent of the TAC. The Eastern Regulatory Area is divided into two districts, the West Yakutat District and the combined Southeast Outside and East Yakutat District (SE/EYT). The 1989 TAC specified for sablefish in the West Yakutat District is 4,550 mt; the portion of the TAC allocated to hook-and-line gear in this district is 4,320 mt. Under § 672.24(b)(3)(ii), if the share of the sablefish TAC assigned to any type of gear for any area or district is reached, further catches of sablefish must be treated as prohibited species by persons using that type of gear for the remainder of the year.

The directed hook-and-line fishery for sablefish began April 1, 1989. Both Districts were initially closed on April 17 based on reported catch rates and effort information (54 FR 16126, April 21, 1989). However, after reassessment of final reported catches, the Regional Director found that the quotas had not in fact been reached during the initial opening. Therefore, the West Yakutat District was reopened for 7 days for directed fishing for sablefish on May 3; after May 10 retention of bycatch amounts of sablefish was permitted (54 FR 19375, May 5, 1989).

The Regional Director reports that vessels using hook and line gear have landed 5,017 mt of sablefish through May 13 in the West Yakutat District. Therefore, pursuant to § 672.24(b)(3)(ii), the Secretary is prohibiting further retention of sablefish caught with hook-and-line gear in the West Yakutat District effective 12:00 noon, ADT, June 9, 1989. Any sablefish caught with hook-and-line gear after that date must be treated as prohibited species and discarded at sea.

The Secretary has already prohibited retention of sablefish caught with trawl gear in the West Yakutat District (54 FR 15411, April 18, 1989). Overharvesting of sablefish will result unless this notice takes effect promptly. NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed.

Public comments on the necessity for this action are invited for a period of 15 days after the effective date of this notice. Public comments on this notice of closure may be submitted to the Regional Director at the address above

until June 24, 1989. If written comments are received which oppose or protest this action, the Secretary will reconsider the necessity of this action, and, as soon as practicable after that reconsideration, will publish in the **Federal Register** a notice either of continued effectiveness of the adjustment, responding to comments received, or modifying or rescinding the adjustment.

Classification

This action is taken under §§ 672.22 and 672.24, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: June 9, 1989.

David S. Crestin,

Acting Director, Office of Fishery Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-14214 Filed 6-12-89; 10:07 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 114
Thursday, June 15, 1989

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1139

[DA-89-023]

Milk in the Great Basin Marketing Area; Notice of Proposed Revision of Diversion Limits and of Cooperative Manufacturing Plant Shipping Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed revision of rule.

SUMMARY: This notice invites written comments on a proposal to increase the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the Great Basin Federal milk order. The proposed action would increase the percentage of producer milk that the operator of a pool plant may divert to nonpool plants from 60 percent to 70 percent during the months of April through August, and from 50 percent to 60 percent in other months. The action was requested by two proprietary pool plant operators whose milk is supplied by independent producers.

In addition, the percentage of its producer milk that a pool manufacturing plant owned and operated by a cooperative association and located in the marketing area must deliver to pool distributing plants during any current month or during the 12-month period ending with the current month in order to meet the order's pooling standards would be reduced from 40 percent to 35 percent. This action was requested by a cooperative association representing a large proportion of the producers supplying the market in order to prevent uneconomic movements of milk. At the request of the cooperative, the shipping percentage has already been reduced from 45 percent to 40 percent.

DATE: Comments are due no later than June 22, 1989.

ADDRESS: Comments (two copies) should be sent to: USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington DC 20090-6456, (202) 447-7183.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action would provide greater assurance that handlers will not engage in uneconomic movement of the market's reserve milk supplies in qualifying such milk for pricing status under the order. The action would also 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 proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601-674), and the provisions of §§ 1139.7(e) and 1139.13(d)(4) of the order, the revision of certain provisions of the order regulating the handling of milk in the Great Basin marketing area is being considered.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of this notice in the **Federal Register.**

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The provisions proposed to be revised are the diversion limitations set forth in § 1139.13(d)(3) and the shipping requirements set forth in § 1139.7(d). The revision would be effective beginning with the month of June 1989. The specific revisions would increase the diversion limitation percentages by 10 percentage points, from the present 60 percent to 70 percent during the months of April through August, and from 50 percent to 60 percent in other months. The cooperstive manufacturing plant shipping requirements would be reduced by an additional 5 percentage points, from 40 percent to 35 percent.

Sections 1139.7(e) and 1139.13(d)(4) of the Great Basin milk order allow the Director of the Dairy Division to increase or reduce the diversion limitation percentage and the shipping percentage requirement by up to 10 percentage points to assure orderly marketing and efficient handling of milk in the marketing area.

Gossner Foods, Inc., and K.D.K., Inc., two proprietary handlers who obtain their milk supplies from independent producers pooled under the Great Basin order, requested that the percentage of producer milk allowed to be diverted to nonpool plants be increased 10 percentage points.

Western Dairymen Cooperative, Inc. (WDCI), a cooperative association which represents a majority of the producers supplying the Great Basin market, requested that the percentage of producer milk required to be shipped to pool distributing plants from a plant owned and operated by a cooperative association and located in the marketing area be reduced an additional 5 percentage points. WDCI had already requested a 5-percent reduction in the shipping percentage.

The handlers state that loss of sales and increasing production make necessary an increase in the percentage of producer milk allowed to be shipped directly to nonpool manufacturing plants rather than delivered to pool plants, and a reduction in the percentage of producer milk required to be shipped to pool distributing plants by a cooperative manufacturing plant. According to the handlers, such action is necessary in order to maintain the pool status of their producers who have long been associated with the marketing area.

Therefore, it may be appropriate to relax the aforementioned provisions of §§ 1139.7(d) and 1139.13(d)(3) to prevent uneconomic shipments of milk.

List of Subjects in 7 CFR Part 1139

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1139 continues to read as follows:

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

Signed at Washington, DC, on June 9, 1989.

W.H. Blanchard,

Director, Dairy Division.

[FR Doc. 89–14136 Filed 6–14–89; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1425

Mediation Assistance in the Federal Service

ACTION: Proposed Rule.

SUMMARY: The following proposed revision is published in order to provide a complete and accurate Form F–53, *Notice To Federal Mediation and Conciliation Service,* and to revise the text of 29 CFR Part 1425, which accompanies the illustration of Form F–53 (29 CFR 1425.2).

DATE: Comments on the proposed revision must be received on or before August 14, 1989.

ADDRESS: Interested organizations and individuals are invited to submit written comments, in three copies, to Eileen B. Hoffman, District Director, Federal Mediation and Conciliation Service, 2100 K Street, NW., Room 212, Washington, DC 20427 All comments received will be available for public inspection during working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Eileen B. Hoffman, District Director, Federal Mediation and Conciliation Service, 2100 K Street, NW., Room 212, Washington, DC 20427 (202) 653–5390.

SUPPLEMENTARY INFORMATION: Form F–53 is made available to assist Federal agencies, and labor organizations representing Federal employees, to obtain FMCS services as provided for in Title 5 USC Section 7119(a). The proposed revision of Form F–53 allows parties to more clearly and accurately state the service requested and arranges information in a manner which aids the entry of data into FMCS computer records. The revised version of Form F–53 is shown below in this proposed rule for purposes of identification.

The changes made to the text of 29 CFR Part 1425, and to Form F–53, are as follows:

29 CFR 1425.2—This section has been revised by designating the first paragraph as subsection (a), and inserting a new second paragraph designated as subsection (b). The third paragraph, containing only one sentence, has been designated as subsection (c). The text of subsection (c) remains unchanged.

29 CFR 1425.2(a)—The FMCS address has been revised to show that the correct designation is to the "Notice Processing Unit" rather than to the current designation of Case Control.

29 CFR 1425.2(a)—The last sentence of this section currently states that parties involved in mid-term bargaining, or impact bargaining, need not submit a Form F–53 to FMCS. In order to promote the submission of Form F–53 in these situations, the revised last sentence states that parties "* should also send a notice"

29 CFR 1425.2(b)—This new section provides information pertaining to an FMCS service not currently described in 29 CFR Part 1425, or indicated on the current FMCS Form F–53; that is, the mediation of grievances. Parties seeking to obtain grievance mediation are required to send a notice to FMCS, but the text of the subsection makes it clear that the agency does not undertake to furnish the service to all requestors. Rather, FMCS retains the discretion to determine those grievance situations for which mediation is appropriate. This new subsection also provides that requests for grievance mediation must be signed by both parties.

Form F–53—FMCS Form F–53 has been modified to provide for requests for grievance mediation, to inform parties that submission of a request does not commit FMCS to provide the service, and to advise that both sides are to sign the Form if grievance mediation is desired. Additional changes to Form F–53 are as follows:

References to FMCS Regional Offices which appear on the back of the current Form are deleted, as Form F–53 must now be sent to the Notice Processing Unit at FMCS headquarters, 2100 K Street, NW., Washington, DC 20427

The current language on Form F–53, relating to a party's desire to Amend, modify or terminate an existing agreement" has been replaced by categories allowing a more complete description; that is, "The expiration of an existing contract (and expiration date), "a contract reopener" (and reopener date), "impact and/or implementation bargaining" (and description of issues), plus "other" (and a description of such other situation).

The current language calling for "date exclusive recognition granted" has been deleted as unnecessary.

In other respects the revised Form F–53 remains generally the same as that currently in use under 29 CFR Section 1425.2. No changes, other than to the language in section 1425.2, have been made in the text of Part 1425.

Executive Order 12291

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

Paperwork Reduction Act Notice

The collection of information in this proposed rule has been submitted to the Office of Management and Budget under section 3504(H) of the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.). Comments regarding any aspect of this information collection should be submitted to the Federal Mediation and Conciliation Service, 2100 K Street, NW Washington, DC 20427 Attention: District Director Eileen Hoffman, and to the Office of Management and Budget, Attention: Desk Officer for FMCS, OMB Room 3001, Washington, DC 20503.

Regulatory Flexibility Act Certification

The FMCS finds that this proposed rule will have no significant economic impact upon a substantial number of small entities within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 605(g)), and will so certify to the Chief Counsel for Advocacy of the Small Business Administration. This conclusion has been reached because the proposed rule does not, in itself, impose any additional economic requirements upon small entities. Accordingly, no regulatory flexibility analysis is required.

List of Subjects in 29 CFR 1425

Collective bargaining, Administrative practice and procedure, Labor management relations.

Date: June 6, 1989.

Robert P Baker,

Acting Director.

Accordingly, Part 1425, is proposed to be amended as follows:

PART 1425—MEDIATION ASSISTANCE IN THE FEDERAL SERVICE

1. The authority citation for 29 CFR Part 1425 continues to read as follows:

Authority 5 U.S.C. 7119, 7134.

2. Section 1425.2 is revised to read as follows:

§ 1425.2 Notice to the Service of agreement negotiations.

(a) In order that the Service may provide assistance to the parties, the party initiating negotiations shall file a notice with the FMCS Notice Processing Unit, 2100 K Street, NW., Washington, DC 20427 at lest 30 days prior to the expiration or modification date of an existing agreement. Parties entering negotiations for an initial agreement shall file such notice within 30 days after commencing negotiations. Parties engaging in mid-term or impact and/or implementation should also send a notice.

(b) Parties requesting grievance mediation must send a notice signed by both the union and the agency involved. Receipt of such notice does not commit FMCS to offer its services. FMCS has the discretion to determine whether or not to perform grievance mediation, as such service may not be appropriate in all cases.

(c) The following form, FMCS Form F-53, has been prepared by the Service for use by the parties.

DRAFT

FMCS FORM F-53.—Notice to Federal Mediation and Conciliation Service

(Pursuant to FMCS Regulations Published at 29 CFR 1425)

MAIL TO: NOTICE PROCESSING UNIT, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427

1. The assistance of the Federal Mediation and Conciliation Service is requested in regard to (check one):
   - ☐ The expiration of an existing contract.
     Expiration date:.....
   - ☐ An initial contract. ☐ A contract reopener.
     Reopener date: .....
   - ☐ Impact and/or implementation Bargaining.
     Issue(s).....
   - ☐ Grievance mediation (Joint signature required).....
     Describe.....
   - ☐ Other (describe):.....
2. Name of agency.....
   Name of subdivision or component if any.....
   Address—Including zip code.....
   Agency official to be contacted.....
   (Area Code) Phone Number.....
3. Name of national union or parent body.....
   Name or number of local (if not a local give name and number if any of organization).....
   Address—Including zip code.....
   Union official to be contacted.....
   (Area Code) Phone Number.....
4. Location of negotiations (Address—Including zip code).....
5. Brief description of issues involved.....
6. Number of employees in bargaining unit(s).....
7. This notice is submitted on behalf of ☐ union ☐ agency.....
8. Name of official submitting this notice.....
   (Area Code) Phone Number.....
   Title.....
   Address—Including zip code.....

Note: Notice requesting grievance mediation must be signed by both the union and the agency. Submission of this notice does not commit the FMCS to offer grievance mediation services.

Signature (Agency).....
Date.....
Signature (Union).....
Date.....

Receipt of this form does not commit FMCS to offer its services. Receipt of this form will not be acknowledged in writing by FMCS. FMCS does not forward copies of this form. While use of this form is voluntary, its use will facilitate FMCS service to respondents. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to FMCS Division of Administrative Services, Washington, D.C. 20427 and to Office of Management and Budget, Paperwork Reduction Project (3076-XXXX) Washington, D.C. 20503.

[FR Doc. 89-14249 Filed 6-14-89; 8:45 am]

BILLING CODE 6732-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900-AD30

Loan Guaranty; Processing Assumptions of VA Guaranteed Home Loans

AGENCY: Department of Veterans Affairs.[1]

ACTION: Proposed regulations.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its regulations for processing assumptions of VA guaranteed home loans to implement the requirements of The Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987. Extensive changes are proposed requiring holders of VA guaranteed loans to examine the creditworthiness of loan purchasers and, upon approval, to release obligors' liabilities to VA. These amendments will enable holders to declare a VA guaranteed loan immediately due and payable upon an unapproved transfer. Regulatory amendments are also proposed to require assumers of VA guaranteed loans to pay a fee of one-half of one percent of the loan balance to the Secretary immediately following loan settlement.

DATES: Comments must be received on or before July 17, 1989. Comments will be available for public inspection until July 25, 1989. VA proposes to make these regulatory amendments effective 30 days after publication of the final regulation.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 at the above address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until July 25, 1989.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address contained in the Paperwork Reduction section of this preamble.

[1] On March 15, 1989, the Veterans Administration became the Department of Veterans Affairs (see 54 FR 10476).

FURTHER INFORMATION CONTACT: Mr. Leonard A. Levy, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs (202) 233-6376.

SUPPLEMENTARY INFORMATION: The Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 (Pub. L. 100-198) created new section 1817A, later renumbered by Pub. L. 100-322 as section 1814 to Title 38, United States Code, which requires underwriting of assumed loans. VA must, accordingly, amend its regulations to implement the requirements of Pub. L. 100-198. The amendments to the 4200 series of 38 CFR Part 36 will affect VA guaranteed manufactured home loans. The changes to the 4300 series of 38 CFR Part 36 concern VA guaranteed loans and the amendments to the 4500 series affect VA direct loans.

Sections 36.4202 and 36.4301 are being amended to include the definition of, for VA purposes, "automatic lender," "credit package" and "servicing agent."

Several changes to §§ 36.4209 and 36.4303 are proposed to meet the requirement of Pub. L. 100-198 that holders of VA guaranteed loans and/or their authorized servicing agents examine the creditworthiness of loan purchasers and determine compliance with the provisions of 38 U.S.C. 1814. Only holders and/or servicing agents approved by VA as "automatic" lenders under 38 U.S.C. 1802(d) may examine and underwrite a proposed assumption without submitting it to VA for prior approval. 38 U.S.C. 1802(d) identifies two categories of lenders that may process loan automatically. They are: (1) Entities such as banks, savings and loan, and mortgage and loan companies that are subject to examination by an agency of the United States or any State, and (2) lenders approved by VA pursuant to standards established by VA. If the assumption is approved, holders and/or their authorized servicing agents are authorized to release obligors from liability to VA. Upon completion of this transfer, the holder or authorized agent must provide notice to VA regarding the status of the loan. If neither the holder nor its authorized servicing agent is an automatic lender, pursuant to 38 U.S.C. 1802(d), the proposed assumption must be submitted to VA for approval. In these cases the holder or its authorized servicing agent must submit to VA the status of the loan, a copy of the purchase contract and a complete credit package developed by the holder which VA will use for determining the creditworthiness of the purchaser.

As required by Pub. L. 100-198, all transfers of VA guaranteed loans, for which commitments were issued on or after March 1, 1988, are now subjected to underwriting review. Accordingly, VA is amending §§ 36.4275 and 36.4308 to require the written instruments on VA guaranteed loans contain a provision, printed in a conspicuous position in capital letters on the first page of each such document, alerting holders and purchasers of the loan's restricted assumability. Amendments to these sections are also required to provide that security instruments evidencing VA guaranteed loans include a provision that the holder may declare the loan immediately due and payable upon an unapproved transfer.

Pursuant to 38 U.S.C. 1829, parties assuming VA guaranteed loans, for which commitments were issued on or after March 1, 1988, must pay a fee of one-half of one percent of the loan balance to VA. Accordingly, VA proposes to amend §§ 36.4232, 36.4254 and 36.4312 to require payment of this fee by a person assuming a loan to which 38 U.S.C. 1814 applies. In addition, the loan holder shall list the amount of this fee in every assumption statement provided and include a notice that the fee must be paid to the holder immediately following loan settlement. The fee shall be transmitted to VA within 15 days of the holder's notice of the transfer. These sections will also indicate that the instruments securing these loans shall contain a provision describing the right of the holder to act as trustee for VA in collecting this fee. In the event the holder does not collect this funding fee incident to the change of ownership, the holder will be required to exercise the right to advance the funds from the loan account and remit them to the Secretary with notice that assumption has been approved.

Pub. L. 100-198 requires other changes to VA regulations. VA loan holders will now be permitted to charge either the purchaser or seller of property purchased subject to assumption of the loan a fee, not to exceed the lesser of $300 and the actual cost of required credit reports or a maximum charge prescribed by State law, for processing an assumption approval. Changes to the relevant sections of the 4200, 4300 and 4500 series of 38 CFR Part 36 are included in these proposed regulatory amendments.

Paperwork Reduction Act

Sections 36.4209(h), 36.4232(e), 36.4254(d)(2), 36.4275(a)(3)(iii), 36.4303(k), 36.4312(d)(8) and 36.4312(e)(2) of this regulation contain information collection requirements. The public reporting burden for these collections, are as follows:

Sections 36.4209(h) and 36.4303(k) are estimated to average 5 hours and 33 minutes per response;

Sections 36.4232(e), 36.4254(d)(2), and 36.4312(e)(2) are estimated to average 10 minutes per response; and

Sections 36.4275(a)(3)(iii) and 36.4312(d)(8) are estimated to average 15 minutes per response.

The average estimated time per response includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

As required by section 3504(h) of the Paperwork Reduction Act, the Department of Veterans Affairs is submitting to the Office of Management and Budget (OMB) a request that it approve this information collection requirement. Organizations and individuals desiring to submit comments for consideration by OMB on these proposed information collection requirements should address them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph F Lackey.

The Secretary hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Budget projections for the next five fiscal years indicate that fewer than 10,000 assumptions will be subject to the underwriting provisions of Pub. L. 100–198 and the information collection and fees required are "one time" collections. Pursuant to 5 U.S.C. 605(b), these proposed regulations are exempt from the initial and final regulatory analysis requirements of sections 603 and 604.

The proposed regulations have been reviewed under Executive Order 12291, entitled Federal Regulation, and are not considered major regulatory changes as defined in the Executive Order. These regulations will not impact on the public or private sectors as major rules. They will not have an annual effect on the economy of $100 million or more and will not cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; nor will they have other 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.

These amendments are proposed under authority granted the Secretary by sections 210(c), 1812(g), and 1820 of Title 38, United States Code.

The Catalog of Federal Domestic Assistance Program Numbers are 64.114, 64.118 and 64.119.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing loan programs-housing and community developments, Manufactured homes, Veterans.

Approved: March 3, 1989.

Thomas E. Harvey,

Acting Administrator.

38 CFR Part 36—LOAN GUARANTY is proposed to be amended as set forth below:

PART 36 [AMENDED]

1. In 38 CFR Part 36, in the Note following the undesignated centered heading, remove the word "1819" and insert in its place, the word "1812"

§ 36.4201 [Amended]

2. In § 36.4201, remove the word "1819" and insert in its place, the word "1812"

§ 36.4202 [Amended]

3. In § 36.4202, in the introductory text and in paragraphs (d) and (g), remove the word "1819" and insert in its place, the word "1812"

4. In § 36.4202, paragraph (e) is revised to read as follows:

§ 36.4202 Definitions.

(e) *Holder.* The lender or any subsequent assignee or transferee of the guaranteed obligation. For purposes of the assumption review required by 38 U.S.C. 1814, the term "holder" shall also apply to the servicer of a loan guaranteed or insured under 38 U.S.C. Chapter 37

(Authority: 38 U.S.C. 1814)

5. In § 36.4202, remove paragraph designations (a) through (s), and add the following definitions in alphabetical order:

Automatic Lender. A lender that may process a loan or assumption without submitting the credit package to the Department of Veterans Affairs for underwriting review. Pursuant to 38 U.S.C. 1802(d) there are two categories of lenders who may process loans automatically: (1) Entities such as banks, savings and loan, and mortgage and loan companies that are subject to examination by an agency of the United States or any State and (2) Lenders approved by the Department of Veterans Affairs pursuant to standards established by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 1802(d))

Credit Package. Any information, reports or verifications used by a lender, holder or authorized servicing agent to determine the creditworthiness of an applicant for a Department of Veterans Affairs guaranteed loan or the assumer of such a loan.

(Authority: 38 U.S.C. 1810 and 1814)

Servicing Agent. An agent designated by the loan holder as the entity to collect installments on the loan and perform other functions as necessary to protect the interests of the holder.

(Authority: 38 U.S.C. 1814)

§ 36.4203 [Amended]

6. In § 36.4203, in the section heading, paragraph (b), and in the authority citation following paragraph (c)(2)(ii), remove the word "1819" wherever it appears and insert in its place, the word "1812"

§ 36.4204 [Amended]

7 In § 36.4204, in the authority citation following paragraph (a)(7), remove the word "1819" and insert in its place, the word "1812"

§ 36.4208 [Amended]

8. In § 36.4208(c), remove the word "mobile" wherever it appears and insert in its place, the word "manufactured" and remove the word "1819" and insert in its place, the word "1812"

§ 36.4209 [Amended]

9. In § 36.4209, in paragraphs (a), (e), the authority citation following paragraph (e), paragraph (g) and the authority citation following paragraph (g), remove the word "1819" wherever it appears and insert in its place, the word "1812" and in paragraphs (e) and (g), remove the word "mobile" wherever it appears and insert in its place, the word "manufactured"

10. In § 36.4209, paragraph (h) is added to read as follows:

§ 36.4209 Reporting requirements.

(h) With respect to any loan for which a commitment was made on or after March 1, 1988, the Secretary must be notified whenever the holder receives

knowledge of disposition of a manufactured home and/or lot securing a Department of Veterans Affairs guaranteed loan.

(1) If the seller applies for prior approval of the assumption of the loan, then:

(i) A holder (or its authorized servicing agent) who is an automatic lender must examine the creditworthiness of the purchaser and determine compliance with the provisions of 38 U.S.C. 1814. The creditworthiness review must be performed by the party that has automatic authority. If both the holder and its servicing agent are automatic lenders, then they must decide between themselves which one will make the determination of creditworthiness, whether the loan is current and whether there is a contractual obligation to assume the loan, as required by 38 U.S.C. 1814. If the actual loan holder does not have automatic authority and its servicing agent is an automatic lender, then the servicing agent must make the determinations required by 38 U.S.C. 1814 on behalf of the holder. The actual holder will remain ultimately responsible for any failure of its servicing agent to comply with the applicable law and Department of Veterans Affairs regulations.

(A) If the assumption is approved and the transfer of the security is completed, then the notice required by this paragraph shall be submitted to the Department of Veterans Affairs with a copy of the Department of Veterans Affairs receipt for the funding fee provided for in §§ 36.4232(e)(3) or 36.4254(d)(3) of this part.

(B) If the application for assumption is disapproved, the holder shall notify the seller and the purchaser that the decision may be appealed to the Department of Veterans Affairs office of jurisdiction within 30 days. The holder shall make available to the Department of Veterans Affairs office copies of all used by the holder in making the holder's decision in case the decision is appealed to the Department of Veterans Affairs. If the application remains disapproved after 60 days (to allow time for appeal to and review by the Department of Veterans Affairs) then the holder must refund $50 of any fee previously collected under the provisions of § 36.4275(a)(3)(iii) of this part.

(C) In performing the requirements of paragraphs (h)(1)(i)(A) or (h)(1)(i)(B) of this section the holder must complete its examination of the creditworthiness of the prospective purchaser and advise the seller of its decision no later than 45 days after the date of receipt by the holder of an application for approval of the assumption. The 45-day period may be extended by an interval not to exceed the time caused by delays in processing of the application which are documented as beyond the control of the holder, such as employers or depositories not responding to requests for verifications, which were timely forwarded, or followups on those requests.

(ii) If neither the holder nor its authorized servicing agent is an automatic lender, the notice to the Department of Veterans Affairs shall include:

(A) Advice regarding whether the loan is current or in default;

(B) A copy of the purchase contract; and

(C) A complete credit package developed by the holder which the Secretary may use for determining the creditworthiness of the purchaser.

(D) The notice and documents required by this section must be submitted to the Department of Veterans Affairs no later than 35 days after the date of receipt by the holder of an application for approval of an assumption, subject to the same extensions as provided in paragraph (h)(1)(i) of this section. If the assumption is not approved by the holder or its authorized agent pursuant to the automatic authority provisions, one-half of any fee collected in accordance with § 36.4275(a)(3)(iii) of this part must be refunded. If an appeal under paragraph (h)(1)(i) (B) of this section is made to the Department of Veterans Affairs, then the review will be conducted at the Department of Veterans Affairs office of jurisdiction by an individual who was not involved in the original disapproval decision.

(2) If the seller fails to notify the holder before disposing of property securing the loan, the holder shall notify the Secretary within 60 days after learning of the transfer. Such notice shall advise whether or not the holder intends to exercise its option to immediately accelerate the loan or whether an opportunity will be extended to the transferor and transferee to apply for retroactive approval of the assumption under the terms of this paragraph.

(Authority: 38 U.S.C. 1814)

§ 36.4210 [AMENDED]

11. In § 36.4210(a) remove the word "mobile" wherever it appears and insert in its place, the word "manufactured"

§ 36.4219 [AMENDED]

12. In § 36.4219, remove the word "1819" and insert in its place, the word "1812"

§ 36.4220 [AMENDED]

13. In § 36.4220, paragraphs (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6), are redesignated as (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7), respectively, and in newly-designated paragraph (a)(7) and the authority citation following paragraph (a)(7), remove the word "1819" and insert in its place, the word "1812"

14. In § 36.4220, paragraph (a)(2) is added to read as follows:

§ 36.4220 Substantive and procedural requirements—waiver.

(a) *

(2) The requirements in § 36.4209(h) of this part concerning the giving of notice in assumption cases under 38 U.S.C. 1814.

(Authority: 38 U.S.C. 1814)

§ 36.4231 [Amended]

15. In § 36.4231, in paragraphs (b) and (c), remove the word "1819" wherever it appears and insert in its place, the word "1812"

§ 36.4232 [Amended]

16. In § 36.4232, in the authority citations in paragraphs (a)(5), (b), and (c)(1), the authority citation in paragraph (c)(2), and the authority citation in paragraph (d)(2), remove the word "1819" wherever it appears and insert in its place, the word "1812" and paragraphs (e)(2), (e)(3) and (e)(4) are redesignated as paragraphs (e)(3), (e)(4) and (e)(5), respectively.

17 In § 36.4232, the first sentence in paragraph (e)(1) is revised, paragraph (e)(2) is added, the first two sentences of newly-designated paragraph (e)(3) are revised, and newly-designated paragraph (e)(4) is revised, to read as follows:

§ 36.4232 Allowable fees and charges—manufactured home unit.

(e)(1) Subject to the limitations set out in paragraphs (4) and (5) of this section, a fee of 1 percent of the total amount must be paid to the Secretary in a manner prescribed by the Secretary before a manufactured home unit loan will be eligible for guaranty.

(2) Subject to the limitations set out in paragraphs (4) and (5) of this section, a fee of one-half of one percent of the loan balance must be paid to the Secretary in a manner prescribed by the Secretary by a person assuming a loan to which section 1814 of Chapter 37 of 38 U.S.C.

applies. The instrument securing such a loan shall contain a provision describing the right of the holder to collect this fee as trustee for the Department of Veterans Affairs. The loan holder shall list the amount of this fee in every assumption statement provided and include a notice that the fee must be paid to the holder immediately following loan settlement. The fee must be transmitted to the Secretary within 15 days of receipt by the holder of notice of the transfer.

(Authority: 38 U.S.C. 1814, 1829)

(3) The lender is required to pay to the Secretary the fee described in paragraph (e)(1) of this section within 15 days after loan closing. Any lender closing a loan, subject to the limitations set out in paragraphs (e)(4) and (e)(5) of this section, who fails to submit timely payment of this fee will be subject to a late charge equal to 4 percent of the total fee due.

(4) The fee described in paragraphs (e)(1) and (e)(2) of this section shall not be collected from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse described in section 1801(b)(2) of Title 38, United States Code.

(Authority: 38 U.S.C. 1829(b))

§ 36.4233 [Amended]

18. In § 36.4233, in paragraph (a), remove the word "mobile" wherever it appears and insert in its place, the word "manufactured" and in paragraph (c), remove the word "1819" and insert in its place, the word "1812"

19. In § 36.4254, paragraphs (d)(2), (d)(3), and (d)(4) are redesignated as paragraphs (d)(3), (d)(4) and (d)(5), respectively, the first sentence in paragraph (d)(1) is revised, paragraph (d)(2) is added, the first two sentences in newly-designated paragraph (d)(3) are revised, and newly-designated paragraph (d)(4) is revised, to read as follows:

§ 36.4254 Fees and charges.

(d)(1) Notwithstanding the provisions of paragraph (c) of this section and subject to the limitations set out in paragraphs (d)(4) and (d)(5) of this section, a fee of 1 percent of the total loan amount must be paid to the Secretary in a manner prescribed by the Secretary before a combination manufactured home and lot loan (or a loan to purchase a lot upon which a manufactured home owned by the veteran will be placed) will be eligible for guaranty.

(2) Subject to the limitations set out in paragraphs (d)(3) and (d)(4) of this section, a fee of one-half of 1 percent of the loan balance must be paid to the Secretary in a manner prescribed by the Secretary by a person assuming a loan to which section 1814 of Chapter 37 of 38 U.S.C. applies. The instrument securing such a loan shall contain a provision describing the right of the holder to collect this fee as trustee for the Department of Veterans Affairs. The loan holder shall list the amount of this fee in every assumption statement provided and include a notice that the fee must be paid to the holder immediately following loan settlement. The fee must be transmitted to the Secretary within 15 days of receipt by the holder of notice of the transfer.

(Authority: 38 U.S.C. 1814, 1829)

(3) The lender is required to pay to the Secretary the fee described in paragraph (d)(1) of this section within 15 days after loan closing. Any lender closing a loan, subject to the limitations set out in paragraphs (d)(4) and (d)(5) of this section, who fails to submit timely payment of this fee will be subject to a late charge equal to 4 percent of the total fee due.

(4) The fee described in paragraphs (d)(1) and (d)(2) of this section shall not be collected from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse described in section 1801(b)(2) of Title 38, United States Code.

(Authority: 38 U.S.C. 1829(b))

§ 36.4275 [Amended]

20. In § 36.4275, in the authority citations in paragraphs (a)(1), (a)(2), and (f)(3), remove the word "1819" wherever it appears and insert in its place, the word "1812" and in paragraphs (c) and (e), remove the word "mobile" wherever it appears and insert in its place, the word "manufactured"

21. In § 36.4275, the introductory text of paragraph (a) is revised and paragraph (a)(3) is added to read as follows:

§ 36.4275 Events constituting default and acceptability of partial payments.

(a) Except as provided in paragraphs (a)(1), (a)(2) and (a)(3) of this section, the conveyance of or other transfer or title to property by operation of law or otherwise, after the creation of a lien thereon to secure a loan which is guaranteed in whole or in part by the Secretary, shall not constitute an event of default, or acceleration of maturity, elective or otherwise, and shall not of itself terminate or otherwise affect the guaranty.

(3) Any housing loan which is financed under 38 U.S.C. Chapter 37 and to which section 1814 of that chapter applies, shall include a provision in the security instrument that the holder may declare the loan immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to section 1814.

(i) A holder may not exercise its option to accelerate a loan upon:

(A) The creation of a lien or other encumbrance subordinate to the lender's security instrument which does not relate to a transfer of rights of occupancy in the property;

(B) The creation of a purchase money security interest for household appliances;

(C) A transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(D) The granting of a leasehold interest of three years or less not containing an option to purchase;

(E) A transfer to a relative resulting from the death of a borrower;

(F) A transfer where the spouse or children of the borrower become joint owners of the property with the borrower;

(G) A transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse of the borrower becomes the sole owner of the property. In such a case the borrower shall have the option of applying directly to the Department of Veterans Affairs regional office of jurisdiction for a release of liability in accordance with § 36.4285 of this part; or

(H) A transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property.

(ii) Any instrument evidencing the loan (i.e., the retail installment contract, promissory note and/or mortgage or deed of trust) shall bear in a conspicuous position in capital letters on the first page of the document in type at least 2½ times larger in height than the regular type on such page the following warning: "THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT" Due to the difficulty in obtaining some commercial type sizes, which are exactly 2½ times

larger in height than other sizes, minor deviations will be permitted based on commercially available type sizes nearest to 2½ times the size of the print on the document.

(iii) On any loan to which 38 U.S.C. 1814 applies, the holder may charge a reasonable fee, not to exceed the lesser of (A) $500 and the actual cost of any credit report required, or (B) any maximum prescribed by applicable state law, for processing an application for assumption and changing its records. A provision authorizing the collection by the holder of this fee shall be contained in the instrument securing the loan.

(Authority: 38 U.S.C. 1814)

22. In § 36.4276, paragraph (a) is revised, to read as follows:

§ 36.4276 Advances and other charges.

(a) A holder may advance any reasonable amount necessary and proper for the maintenance or repair of the security, or for the payment of accrued taxes, special assessments or other charges which constitute prior liens, or premiums on fire or other hazard insurance against loss of or damage to such property and any such advance so made may be added to the guaranteed indebtedness. A holder may also advance the one-half of one percent funding fee due on a transfer under 38 U.S.C. 1814 when this is not paid at the time of transfer. All security instruments for loans to which 38 U.S.C. 1814 applies must include a clause authorizing an advance for this purpose if it is not paid at the time of transfer.

(Authority: 38 U.S.C. 1814)

§ 36.4277 [Amended]

23. In § 36.4277 in paragraph (e)(3) remove the word "his" and insert in its place, the words "his or her"

24. In § 36.4277 paragraph (e)(5) is added, to read as follows:

§ 36.4277 Release of security.

(e)

(5) The release of an obligor, or obligors, incident to the sale of property which the holder is authorized to approve under the provisions of 38 U.S.C. 1814.

(Authority: 38 U.S.C. 1814)

§ 36.4280 [Amended]

25. In § 36.4280, in paragraph (c) remove the word "his" and insert in its place, the words "his or her"

§ 36.4281 [Amended]

26. In § 36.4281, remove the word "him" and insert in its place, the words "him or her"

§ 36.4282 [Amended]

27 In § 36.4282, in paragraph (b) remove the word "his" and insert in its place, the words "his or her"

§ 36.4284 [Amended]

28. In § 36.4284, in the authority citation following paragraph (c), remove the word "1819(g)" and insert in its place, the word "1812(g)"

§ 36.4285 [Amended]

29. In § 36.4285, in paragraphs (d), (e) and (f), remove the word "1819" and insert in its place, the word "1812" and in paragraphs (e), (f) and (f)(3), remove the word "1817" and insert in its place, the word "1813"

30. In § 36.4285, the first sentence in paragraph (e) is revised and an authority citation is added, and paragraph (g) is added to read as follows:

§ 36.4285 Subrogation and indemnity.

(e) Whenever any veteran disposes of residential property securing a guaranteed loan obtained under 38 U.S.C. 1812, and for which the commitment to make the loan was made prior to March 1, 1988, the Secretary, upon application made by such veteran, shall issue to the veteran a release relieving him or her of all further liability to the Secretary on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Secretary has determined, after such investigation as the Secretary may deem appropriate, that there has been compliance with the conditions prescribed in 38 U.S.C. 1813(a).

(Authority: 38 U.S.C. 1813, 1814)

(g) If a veteran or any other person disposes of residential property securing a guaranteed or insured loan for which a commitment was made on or after March 1, 1988, and the veteran or other person notifies the loan holder in writing before disposing of the property, the veteran or other person shall be relieved of all further liability to the Secretary with respect to the loan (including liability for any loss resulting from any default of the purchaser or any subsequent owner of the property) and the application for assumption shall be approved if the holder determines that:

(1) The proposed purchaser is creditworthy;

(2) The proposed purchaser is contractually obligated to assume the loan and the liability to indemnify the Department of Veterans Affairs for the amount of any claim paid under the guaranty as a result of a default on the loan, or has already done so; and,

(3) The payments on the loan are current.

Should these requirements be satisfied, the holder may also release the veteran or other person from liability on the loan.

(Authority: 38 U.S.C. 1813, 1814)

§ 36.4286 [Amended]

31. In § 36.4286, in paragraphs (b), (b)(1), and (b)(11) remove the word "1819" wherever it appears and insert in its place, the word "1812"

32. In § 36.4301, the definition for "Holder" is revised to read as follows:

§ 36.4301 Definitions.

Holder. The lender or any subsequent assignee or transferee of the guaranteed or insured obligation. For purposes of the assumption review required by 36 U.S.C. 1814, the "holder" shall also apply to the servicer of a loan guaranteed or insured under 38 U.S.C. Chapter 37

(Authority: 38 U.S.C. 210(c), 1814)

33. In § 36.4301, add the following definitions in alphabetical order:

Automatic Lender. A lender that may process a loan or assumption without submitting the credit package to the Department of Veterans Affairs for underwriting review. Pursuant to 38 U.S.C. 1802(d) there are two categories of lenders who may process loans automatically: (1) entities such as banks, savings and loan and mortgage and loan companies that are subject to examination by an agency of the United States or any State and (2) lenders approved by the Department of Veterans Affairs pursuant to standards established by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 1802(d))

Credit Package. Any information, reports or verifications used by a lender, holder or authorized servicing agent to determine the creditworthiness of an applicant for a Department of Veterans Affairs guaranteed loan or the assumer of such a loan.

(Authority: 38 U.S.C. 1810 and 1814)

Servicing Agent. An agent designated by the loan holder as the entity to collect installments on the loan and

perform other functions as necessary to protect the interests of the holder.

(Authority: 38 U.S.C. 1814)

34. In § 36.4303, paragraph (k) is added to read as follows:

§ 36.4303 Reporting requirements.

(k) With respect to any loan for which a commitment was made on or after March 1, 1988, the Secretary must be notified whenever the holder receives knowledge of disposition of residential securing a Department of Veterans Affairs guaranteed loan.

(1) If the seller applies for prior approval of the assumption of the loan, then:

(i) A holder (or its authorized servicing agent) who is an automatic lender must examine the creditworthiness of the purchaser and determine compliance with the provisions of 38 U.S.C. 1814. The creditworthiness review must be performed by the party that has automatic authority. If both the holder and its servicing agent are automatic lenders, then they must decide between themselves which one will make the determination of creditworthiness, whether the loan is current and whether there is a contractual obligation to assume the loan, as required by 38 U.S.C. 1814. If the actual loan holder does not have automatic authority and its servicing agent is an automatic lender, then the servicing agent must make the determinations required by 38 U.S.C. 1814 on behalf of the holder. The actual holder will remain ultimately responsible for any failure of its servicing agent to comply with the applicable law and Department of Veterans Affairs regulations.

(A) If the assumption is approved and the transfer of the security is completed, then the notice required by this paragraph shall be submitted to the Department of Veterans Affairs with a copy of the Department of Veterans Affairs receipt for the funding fee provided for in § 36.4312(e)(3) of this part.

(B) If the application for assumption is disapproved, the holder shall notify the seller and the purchaser that the decision may be appealed to the Department of Veterans Affairs office of jurisdiction within 30 days. The holder shall make available to that Department of Veterans Affairs office copies of all items used by the holder in making the holder's decision in case the decision is appealed to the Department of Veterans Affairs. If the application remains disapproved after 60 days (to allow time for appeal to and review by the Department of Veterans Affairs) then the holder must refund $50 of any fee previously collected under the provisions of § 36.4312(d)(8) of this part.

(C) In performing the requirements of paragraphs (k)(1)(i)(A) or (k)(1)(i)(B) of this section the holder must complete its examination of the creditworthiness of the prospective purchaser and advise the seller no later than 45 days after the date of receipt by the holder of an application for approval of the assumption. The 45-day period may be extended by an interval not to exceed the time caused by delays in processing of the application which are documented as beyond the control of the holder, such as employers or depositories not responding to requests for verifications, which were timely forwarded, or followups on those requests.

(ii) If neither the holder nor its authorized servicing agent is an automatic lender, the notice to the Department of Veterans Affairs shall include:

(A) Advice regarding whether the loan is current or in default;

(B) A copy of the purchase contract; and

(C) A complete credit package developed by the holder which the Secretary may use for determining the creditworthiness of the purchaser.

(D) The notice and documents required by this section must be submitted to the Department of Veterans Affairs no later than 35 days after the date of receipt by the holder of an application for approval of an assumption, subject to the same extensions as provided in paragraph (k)(1)(i) of this section. If the assumption is not automatically approved by the holder or its authorized agent, pursuant to the automatic authority provisions, one-half of any fee collected in accordance with § 36.4312(d)(8) of this part must be refunded. If an appeal under paragraph (k)(1)(i)(B) is made to the Department of Veterans Affairs, then the review will be conducted at the Department of Veterans Affairs by an individual who was not involved in the original disapproval decision.

(2) If the seller fails to notify the holder before disposing of property securing the loan, the holder shall notify the Secretary within 60 days after learning of the transfer. Such notice shall advise whether or not the holder intends to. exercise its option to immediately accelerate the loan and whether or not an opportunity will be extended to the transferor and transferee to apply for retroactive approval of the assumption under the terms of this paragraph.

(Authority: 38 U.S.C. 1814)

§ 36.4308 [Amended]

35. In § 36.4308, in paragraph (a), remove the words "paragraph (c)" and insert in their place, the words "paragraphs (b) or (c)" and in paragraph (b) remove the words "paragraph (d)" and insert in their place, the words "paragraph (f)"

36. In § 36.4308, paragraph (e)(1) and (e)(2) are removed, paragraphs (b), (c), (d), (f) and (g) are redesignated as paragraphs (d), (e), (f), (g) and (h), respectively, and new paragraphs (b) and (c) are added to read as follows:

§ 36.4308 Transfer of title by borrower or maturity by demand or acceleration.

(b)(1) The Secretary may issue guaranty on loans in which a State, Territorial, or local governmental agency provides assistance to a veteran for the acquisition of a dwelling. Such loans will not be considered ineligible for guaranty if the State, Territorial, or local authority, by virtue of its laws or regulations or by virtue of Federal law, requires the acceleration of maturity of the loan upon the sale of conveyance of the security property to a person ineligible for assistance from such authority.

(2) At the time of application for a loan assisted by a State, Territorial, or local governmental agency, the veteran-applicant must be fully informed and consent in writing to the housing authority restrictions. A copy of the veteran's consent statement must be forwarded with the loan application or the report of a loan processed on the automatic basis.

(Authority: 38 U.S.C. 1803(c))

(c) Any housing loan which is financed under 38 U.S.C. Chapter 37 and to which section 1814 of that chapter applies, shall include a provision in the security instrument that the holder may declare the loan immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to section 1814.

(1) A holder may not exercise its option to accelerate a loan upon:

(i) The creation of a lien or other encumbrance subordinate to the lender's security instrument which does not relate to the transfer of rights of occupancy in the property;

(ii) The creation of a purchase money security interest for household appliances;

(iii) A transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(iv) The granting of a leasehold interest of three years or less not containing an option to purchase;

(v) A transfer to a relative resulting from the death of a borrower;

(vi) A transfer where the spouse or children of the borrower become a joint owners of the property with the borrower;

(vii) A transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse of the borrower becomes the sole owner of the property. In such a case the borrower shall have the option of applying directly to the Department of Veterans Affairs regional office of jurisdiction for a release of liability in accordance with § 6.4323 of this part; or

(viii) A transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property.

(2) The mortgage or deed of trust and the promissory note or bond evidencing a loan to which this paragraph applies shall bear in a conspicuous position in capital letters on the first page of the document in type at least 2½ times larger than the regular type on such page the following warning: "THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT." Due to the difficulty in obtaining some commercial type sizes which are exactly 2½ times larger in height than other sizes, minor deviations in size will be permitted based on commercially available type sizes nearest to 2½ times the size of the print on the document.

(Authority: 38 U.S.C. 1814)

37 In § 36.4312, paragraphs (e)(2), (e)(3) and (e)(4) are redesignated as paragraphs (e)(3), (e)(4) and (e)(5), respectively, paragraph (d)(8) is added, the first sentence in paragraph (e)(1) is revised, paragraph (e)(2) is added, the first two sentences in newly-designated paragraph (e)(3) are revised, and newly-designated paragraph (e)(4) is revised, to read as follows:

§ 36.4312 Charges and fees.

(d)

(8) On any loan to which section 1814 of 38 U.S.C. Chapter 37 applies, the holder may charge a reasonable fee, not to exceed the lesser of (i) $500 and the actual cost of any credit report required, or (ii) any maximum prescribed by applicable State law, for processing an application for assumption and changing its records.

(Authority: 38 U.S.C. 1814)

(e)(1) Subject to the limitations set out in paragraphs (e)(4) and (e)(5) of this section, a fee of 1 percent of the total loan amount must be paid to the Secretary in a manner prescribed by the Secretary before a home or condominium loan will be eligible for guaranty or insurance.

(2) Subject to the limitations set out in this section, a fee of one-half of one percent of the loan balance must be paid to the Secretary in a manner prescribed by the Secretary by a person assuming a loan to which section 1814 of Chapter 37 of 38 U.S.C. applies. The instrument securing such a loan shall contain a provision describing the right of the holder to collect this fee as trustee for the Department of Veterans Affairs. The loan holder shall list the amount of this fee in every assumption statement provided and include a notice that the fee must be paid to the holder immediately following loan settlement. The fee must be transmitted to the Secretary within 15 days of the receipt by the holder of the notice of transfer.

(Authority: 38 U.S.C. 1814)

(3) The lender is required to pay to the Secretary the fee described in paragraph (e)(1) of this section within 15 days after loan closing. Any lender closing a loan, subject to the limitations set out in paragraphs (e)(3) and (e)(4) of this section, who fails to submit timely payment of this fee will be subject to a late charge equal to 4 percent of the total fee due.

(4) The fees described in paragraphs (e)(1) and (e)(2) of this section shall not be collected from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse described in section 1801(b)(2) of Title 38, United States Code.

38. In § 36.4313, two sentences are added at the end of paragraph (a), to read as follows:

§ 36.4313 Advances and other charges.

(a) A holder may also advance the one-half of one percent funding fee due on a transfer under 38 U.S.C. 1814 when this is not paid at the time of transfer. All security instruments for loans to which 38 U.S.C. 1814 applies must include a clause authorizing the collection of an assumption funding fee and an advance for this fee if it is not paid at the time of transfer.

(Authority: 38 U.S.C. 1814)

§ 36.4323 [Amended]

39. In § 36.4323, in paragraph (a) remove the words "his contract" and insert in their place the words, "the contract" in paragraph (b) remove the word "him" and insert in its place, the words "him or her" in paragraph (g) remove the words "by him" in paragraph (g) remove the word "1817" and insert in its place, the word "1813" and in paragraph (g)(3) remove the word "he" and insert in its place, the words "he or she"

40. In § 36.4323, the first sentence in paragraph (f) is revised and an authority citation is added, and paragraph (h) is added to read as follows:

§ 36.4323 Subrogation and indemnity.

(f) Whenever any veteran disposes of residential property securing a guaranteed or insured loan obtained by him or her under 38 U.S.C. Chapter 37 and for which the commitment to make the loan was made prior to March 1, 1988, the Secretary, upon application made by such veteran, shall issue to the veteran a release relieving him or her of all further liability to the Secretary on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Secretary has determined, after such investigation as may be deemed appropriate, that there has been compliance with the conditions prescribed in 38 U.S.C. 1813.

(Authority: 38 U.S.C. 1814)

(h) If a veteran or any other person disposes of residential property securing a guaranteed or insured loan for which a commitment was made on or after March 1, 1988, and the veteran or other person notifies the loan holder in writing before disposing of the property, the veteran or other person shall be relieved of all further liability to the Secretary with respect to the loan (including liability for any loss resulting from any default of the purchaser or any subsequent owner of the property) and the application for assumption shall be approved if the holder determines that:

(1) The proposed purchaser is creditworthy;

(2) The proposed purchaser is contractually obligated to assume the loan and the liability to indemnify the Department of Veterans Affairs for the amount of any claim paid under the

guaranty as a result of a default on the loan, or has already done so; and,

(3) The payments on the loan are current.

Should these requirements be satisfied, the holder may also release the veteran or other person from liability on the loan.

(Authority: 38 U.S.C. 1813)

41. In § 36.4324, paragraph (f) is revised to read as follows:

§ 36.4324 Release of security.

(f) The release of the personal liability of any obligor on a guaranteed or insured obligation resultant from the act or omission of any holder without the prior approval of the Secretary shall release the obligation of the Secretary as guarantor or insurer, except when such act or omission consists of (1) failure to establish the debt as a valid claim against the assets of the estate of any deceased obligor, provided no lien for the guaranteed or insured debt is thereby impaired or destroyed; or (2) an election and appropriate prosecution of legally available effective remedies with respect to the repossession or the liquidation of the security in any case, irrespective of the identity or the survival of the original or of any subsequent debtor, if holder shall have given such notice as required by § 36.4317 of this part and if, after receiving such notice, the Secretary shall have failed to notify the holder within 15 days to proceed in such manner as to effectively preserve the personal liability of the parties liable, or such of them as the Secretary indicates in such notice to the holder; or (3) the release of an obligor, or obligors, from liability on an obligation secured by a lien on property, which release is an incident of and contemporaneous with the sale of such property to an eligible veteran who assumed such obligation, which assumed obligation is guaranteed on the assuming veteran's account pursuant to 38 U.S.C. Chapter 37· or (4) the release of an obligor or obligors as provided in § 36.4314(d) of this part; or, the release of an obligor, or obligors, incident to the sale of property securing the loan which the holder is authorized to approve under the provisions of 38 U.S.C. 1814.

(Authority: 38.U.S.C. 1814)

42. In § 36.4335, paragraph (h) is added, to read as follows:

§ 36.4335 Supplementary administrative action.

(h) The requirements in § 36.4303(k) of this part concerning the giving of notice in assumption cases under 38 U.S.C. 1814.

(Authority: 38 U.S.C. 1814)

§ 36.4508 [Amended]

43. In § 36.4508, in paragraph (b) remove the word "1817(a)" and insert in its place, the words "1813(a) or 1814, as appropriate" and in paragraph (c) remove the word "1817(a)" and insert in its place, the word "1813(a)"

44. In § 36.4508, paragraph (a) is revised to read as follows:

§ 36.4508 Transfer of property by borrower.

(a) Direct loans for which commitments are made on or after March 1, 1988, are not assumable without the prior approval of the Department of Veterans Affairs or its authorized agent. The following shall apply:

(1) The Department of Veterans Affairs shall include in the mortgage or deed of trust and the promissory note or bond on any loan for which a commitment was made of or after March 1, 1988, the following warning in a conspicuous position in capital letters on the first page of the document in type at least 2½ times larger than the regular type on such page: "THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT. Due to the difficulty in obtaining some commercial type sizes which are exactly 2½ times larger in height than other sizes, minor deviations in size will be permitted based on commercial available type sizes nearest to 2½ times the size of the print on the document.

(2) The instrument securing a direct loan for which a commitment is made on or after March 1, 1988, shall include:

(i) A provision that the Department of Veterans Affairs or other holder may declare the loan immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to section 1814. This option may not be exercised if the transfer is the result of:

(A) The creation of a lien or other encumbrance subordinate to the lender's security instrument which does not relate to a transfer of rights of occupancy in the property;

(B) The creation of a purchase money security interest for household appliances;

(C) A transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(D) The granting of a leasehold interest of three years or less not containing an option to purchase;

(E) A transfer to a relative resulting from the death of a borrower;

(F) A transfer where the spouse or children of the borrower become a joint owner of the property with the borrower;

(G) A transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse of the borrower becomes the sole owner of the property. In such a case the borrower shall have the option of applying directly to the Department of Veterans Affairs regional office of jurisdiction for a release of liability under 1813(a); or

(H) A transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property.

(ii) A provision that a funding fee equal to one-half of 1 percent of the loan balance as of the date of transfer shall be payable to the Department of Veterans Affairs or its authorized agent. Furthermore, this provision shall provide that if this fee is not paid it shall constitute an additional debt to that already secured by the instrument; and,

(iii) A provision authorizing an assumption processing charge, not to exceed the lesser of $500 and the actual cost of a credit report or any maximum prescribed by applicable State law.

(Authority: 38 U.S.C. 1814)

45. In § 36.4511, paragraph (d) is added, to read as follows:

§ 36.4511 Advances after loan closing.

(d) The Department of Veterans Affairs may treat as an advance and add to the mortgage balance the one-half of 1 percent funding fee due on a transfer under 38 U.S.C. 1814 when this is not paid at the time of transfer.

(Authority: 38 U.S.C. 1814)

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POSTAL SERVICE

39 CFR Part 111

Acceptance of Mailpieces Bearing an Incorrect Date in the Meter or Mailer's Precancel Postmark

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends postal regulations to specify the circumstances under which mail will be accepted with an incorrect date in the meter or mailer's precancel postmark. The proposal would establish more equitable and more uniform conditions for mail acceptance.

DATES: Comments must be received on or before July 17 1989.

ADDRESS: Address all comments to the Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, DC 20260–5360. Copies of all written comments will be available for inspection between 9 a.m. and 4 p.m., Monday through Friday, in Room 8430, at the above address.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268–5199.

SUPPLEMENTARY INFORMATION: On March 14, 1989, the Postal Service published a proposed rule that would have changed existing procedures concerning the acceptance of mailings bearing an incorrect date in the meter or mailer's precancel postmark (54 FR 10563–10565). The Postal Service received twelve comments concerning the proposed rule.

One commenter supported the proposal. The remaining comments generally acknowledged the permits of requiring accurate postmarking of mail, but criticized the proposal for the manner it dealt with the problem of incorrect dates.

One commenter observed that notices of irregularity are not always provided promptly when errors in mail preparation are found, and that the final rule should require immediate notice so that the mailer can examine the mailing and determine the cause of an error. The revised proposal rule includes such a provision.

Two commenters suggested that dated mailings which the Postal Service failed to collect when it should have collected them should be excepted from any penalty since the stale date would not be the fault of the mail preparer. This has also been incorporated into the revised proposal.

Three commenters stated that errors in metered mail are not deliberate; they and three other commenters said that presort bureaus do their best in filtering-out misdated mail they receive, but neither they nor other customers should be penalized as a group if one customer has—for any reason—failed to submit correctly-dated mailpieces. Mail acceptance regulations cannot be based simply on good intentions, and the Postal Service cannot accept postmark errors in some mailings essentially because the presenter tried to detect errors as the mailing was prepared. Nonetheless, the Postal Service realizes the circumstances that may affect some mailers, and the revised proposal seeks to offer them realistic means to deal with rejected mailings and pass the costs of such situations on to those who caused them.

Three commenters also cited secondary cost considerations, such as the cost to the mailer or presorter for reprocessing a rejected mailing, delays in the material being mailed and the impact on its value, and the ill-will that may arise against the Postal Service if it is perceived as excessively harsh in dealing with incorrectly-dated mail. The revised proposal seeks to mitigate the consequences of a rejected mailing, and effective quality control measures by mailers (including presort bureaus) should obviate the need for elaborate protections in cases of unacceptable mailings. Based on the comments, many mailers and bureaus already police their own mailing operations, or expect this of their clients; therefore, effective maintenance of these efforts should minimize instances of rejected mailings and occasions of or associated costs and delays.

Two commenters suggested that fees or penalties should be levied against the contributor of the misdated mail, not against the presenter of the mail that contained it (e.g., the presort bureau). The instinctive reaction to penalize the party who caused the problem is not without merit. However, it would be administratively burdensome for the Postal Service to construct a sampling and identification procedure that credibly showed whose errors were the cause of a rejected mailing, particularly when the offender's mailpieces are mingled in a mailing presented by a presort bureau. Further, it may be argued that the Postal Service cannot legally impose a penalty or fee for misdated pieces without further proceedings before the Postal Rate Commission. Therefore, the revised proposal only reflects this concept as a limited alternative.

Two commenters also suggested that the record of errors be limited to a specific lifespan, such as three to six months. The proposed rule failed to mention the period of retention for the record of error; the revised proposal specifies a 180-day retention period.

Three commenters favored more extensive research concerning the causes of misdated mail, including analysis of the mailstream and consultation with the mailing industry, before adoption of a final rule. The Postal Service recognizes the value of information before taking action impacting its customers. However, since this is not a newly-discovered problem, and since the notice-and-comment process allows for extensive input by interested parties, the Postal Service is not satisfied that further delays are warranted or that a protracted dialogue alone will sufficiently ameliorate the problem through greater awareness or action on the part of mailers.

One commenter supported preserving the flexibility now allowed local postmasters to reject or accept misdated mail based on the local knowledge of the mailer's usual practices. The concept of local flexibility is a two-edged sword: it allows for accommodation of circumstances that cannot or need not be addressed on a national scale, but it also permits mailers to exert pressure on local postal managers or, conversely, allows some of those managers to grant relief from requirements to some mailers while other customers are held to a stricter standard. One of the specific reasons for the original proposed rule was to establish a consistent requirement, and this purpose is carried forward in the revised proposal.

Two commenters thought that terminology should be improved in defining who the "mailer" is—whether the meter holder or the presenter of the mail—and what is a sufficiently serious error to warrant rejection of a mailing. The revised proposal obviates the need for such a definition, largely because the Postal Service will deal with whoever presents the mail, and provide sufficient information for rejected mailings to allow the presenter (if a presort bureau) to settle the problem with its client within the terms of its own business relationship. Further, since this proposal relates to improper dating of meter or mailer's precancel postmarks, the range of potential errors is relatively finite and straight-forward; for that reason, a further listing of exemplary errors is not warranted.

The comments reflect the views of two distinct communities in this matter: one that prepares and presents its own mail, and another that receives premetered mail from customers and presorts it before submission to the Postal Service. None of the commenters from either community contests the need for accurate postmarking and for a reasonable expectation that the preparer of the mail should be held to a certain standard of accuracy in that regard. Both are in agreement that the proposed rule was insufficiently specific in placing that responsibility and in describing the threshold beyond which dating errors were excessive, as well as

being too demanding in giving a once-in-a-lifetime chance for error. As noted above, the Postal Service recognizes how these perceptions were formed and has amended its proposed rule accordingly.

The Postal Service considers that the preparer of the mail, i.e., the individual business authorized to use a mailer's precancel postmark or to whom the meter is licensed, should be held accountable for accurate predating of that mail. An intermediate party, such as a presort bureau, who prepares the mail for presentation to the Postal Service on the owner's behalf, but who does not have significant control over the dating of the mail, must be called upon to exercise appropriate control over what it receives and enters into the mails, but cannot be held to the same accountability as the originator of that mail. Therefore, the revised proposal is tailored to impose alternative penalties on the mailing presented to the Postal Service that are proportionate to the error. If the mailing is presented by the mailer, the penalty will, at once, reach the preparer whose error was detected and precipitated the rejection of the mailing. If the mailing is presented by a third party, such as a presort bureau, it is expected that the penalty will be passed back to the originator in a manner amendable to the parties by agreement.

The Postal Service also recognizes that a "lifetime" black mark against a mailer is excessive, as would be a rejection for a minor error. Although neither was intended by the original proposal, the absence of both a stated period of record and a detail of appropriate reasons for rejection led to understandable objections. The proposed rule is amended to note that a rejected mailing will be recorded for a period of 180 days, after which the slate will be cleaned.

Mailers generally understand that their mailings, as presented, will be expected to meet certain requirements, including accuracy in the mailer's precancel or meter postmark. In applying this expectation in practice, the Postal Service commonly employs sampling to detect errors, and allows a small tolerance for incidental proportions of error. Under this revised proposal, the Postal Service will examine at least fifty pieces at random from the mailing to check for incorrect dates. If any are found, further directed examination of another fifty pieces will be required. If those samples find a total fo five or more pieces with incorrect dates, the mailing cannot be accepted.

Mailers who were concerned that circumstances beyond their control would cause a mailing to be rejected should note that the proposed rule is amended to allow the mailer's file to be annotated with an error finding only (rather than having a mailing rejected), if a valid reason exists to warrant acceptance of the mailing and the acceptance has been made under specific, controlled circumstances.

Lastly, the procedures to be followed are more specific in describing the notification procedures so that mailers will always be aware of their status vis-a-vis this proposed rule.

Although exempt from the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

List of Subjects in 39 Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

PART 140—POSTAGE

144—Postage Meters and Meter Stamps.

144.4 Meter Stamps.

144.47 Date of Mailing.

144.471 The date shown in a meter postmark must be the actual date of deposit, except when the mailpiece is deposited after the last scheduled collection of the day; or as provided by 144.54 or 374.22. When deposit is made after the last scheduled collection of the day, mailers are encouraged but not required to use the date of the next scheduled collection.

144.476 A .00" postage meter impression used to correct the date of metered mail must be placed on the nonaddress side of envelopes in the upper right hand corner, or adjacent to the postage meter stamp on flats or parcels. The date of the .00" impression must be the actual date of deposit.

144.5 Mailings.

144.53 Handling.

144.534 Examination.

a. Presorted Mail. From each metered mailing paid at a bulk or presorted rate, randomly select at least fifty pieces of mail and examine them according to the procedures in Handbook DM–102, *Bulk Mail Acceptance.* Handle metered bulk or presort rate mail bearing an illegible or incorrect date in the postmark, whether detected during acceptance or after clearance for distribution, as provided by 144.54 or 374.22, as applicable.

b. Nonpresorted Mail. Examine nonpresorted metered mail to determine that it is properly prepared and bears a correct date in the meter postmark. If individual mailings can be identified, randomly select at least fifty pieces from each. This examination may be made of pieces either awaiting or during distribution. Handle nonpresorted metered mail that is improperly prepared or does not bear a legible or correct date in the meter postmark as provided by 144.542.

144.54 Mailing Irregularities.

144.541 Presorted Mail with Presort Errors. Handle as directed by Handbook DM–102, *Bulk Mail Acceptance,* and 374.22, as applicable.

144.542 Nonpresorted Mail and Presorted Mail without Presort Errors.

a. Initial Detection. If the random check required by 144.534 reveals one or more pieces with incorrect or illegible meter dates, examine fifty additional pieces in the mailing to determine the extent of the problem. If as many as five or more pieces are found with incorrect or illegible meter dates, advise the mailer of the errors within 30 minutes. Provide the mailer with a specific description of the errors, including the meter number appearing on the improperly prepared pieces.

b. First Occurrence. On the first occurrence, use Form 3749, *Irregularities in the Preparation of Mail Matter,* as a follow-up notice to the mailer whose metered mailing bore an incorrect or illegible date in the meter postmark, or whose mailing was otherwise prepared improperly. Accept the mailing (if other preparation requirements are met), but maintain a record of the date and nature of the irregularity for 180 days from its occurrence. Postmark the misdated mailpieces to apply the correct mailing date.

c. Subsequent Occurrences. If future mailings (within the 180-day period) are submitted with similar errors (incorrect

or illegible date in the meter postmark, except as provided by 374.22, or other preparation deficiencies), do not accept the mailing. Contact the mailer within 30 minutes and give the mailer three options: (1) reclaim the mailing and reenvelope the mailpieces; (2) reclaim the mailing and apply a legible .00" meter impression with the correct date; or (3) pay additional postage to satisfy payment of the full single-piece rate on the mailing in proportion to the rate of error detected. The mailer may reclaim only one segment of the mailing (such as that portion from one client, if the mailing is presented by a presort bureau), if it is demonstrated, to the satisfaction of the Postal Service, that such action will remove all the misdated pieces.

d. Postal Error. Do not treat as errors any pieces which are legibly postmarked the previous date if they were deposited in a collection box after the last collection (see 144.471), or were not collected by the Postal Service as scheduled on the date appearing in the meter postmark.

144.6 Security.

144.61 Quarterly Verification.

*

g. Examine metered mail being sampled for improper mailing practices, such as incorrect or illegible postmarks and other preparation deficiencies. Follow the procedures in 144.54 if errors are detected.

370 Mailing

374 Presort Verification

374.2 When a Carrier Route First-Class, Presorted First-Class, Nonpresorted ZIP + 4, ZIP + 4 Presort, or ZIP + 4 Barcoded Rate Mailing is Disqualified.

374.22 Correction of Dates on Resubmitted Metered and Mailer's Precancel Postmark Mailpieces.

374.221 General. If a mailer elects to correct the presort or preparation problems in a mailing which had resulted in its disqualification when originally presented for acceptance, but is unable to resubmit that mailing on the same day, the date shown in the meter or mailer's precancel postmark must be corrected by reenveloping or applying a .00" meter impression which includes the correct date of mailing.

374.222 Limited Exception to Correction of Date of Mailing. Subject to the following conditions, the postmaster of the office of mailing may waive the requirements of 374.221 *on a limited basis,* as specified in 374.223 and the following:

a. The presorted mailing with an incorrect date in the meter or mailer's precancel postmark is resubmitted on the day immediately following its initial presentation and disqualification;

b. The mailing meets all other applicable requirements; and

c. (1) The initial presort or other preparation deficiencies resulted from mailing equipment problems beyond the mailer's control; or

(2) It represents the customer's first mailing at the carrier route First-Class, Presorted First-Class, nonpresorted ZIP + 4, ZIP + 4 Presort, or ZIP + 4 Barcoded rate, and the improper presort or preparation resulted from misinformation or misunderstanding of the applicable presort or preparation requirements.

Note.—Nonpresorted mailings, full-rate mailings, and presorted mailings not being resubmitted after correction of presort or other preparation deficiencies must be handled as provided by DMM 144.54 if they are improperly prepared or bear the incorrect date in the meter or mailer's precancel postmark.

374.223 Record of Waiver. If the postmaster accepts the mailing under the provisions of 374.222, a record of the waiver must be maintained for 180 days from its occurrence. Future mailings (within the 180-day period) submitted with an incorrect date in the meter or mailer's precancel postmark cannot be accepted, and are subject to the provisions of 144.542.

An appropriate amendment to 39 CFR 111.3 will be published if the proposal is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89-14162 Filed 6-14-89; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 64a

RIN 0905-AC02

National Institute of Environmental Health Sciences Hazardous Waste Worker Training

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish a new Part 64a in Title 42 entitled: National Institute of Environmental Health Sciences Hazardous Waste Worker Training. Section 126(g) of the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 42 U.S.C. 9660a, authorizes the National Institute of Environmental Health Sciences (NIEHS) to administer these newly created training grants.

DATES: Comments must be received by August 14, 1989.

ADDRESSES: Comments should be addressed to Mr. John Migliore, NIH Regulations Officer, National Institutes of Health, Building 31, Room 3B11, 9000 Rockville Pike, Bethesda, Maryland 20892.

FOR FURTHER INFORMATION CONTACT: Mr. John Migliore at the address above, or telephone (301) 496-4606.

SUPPLEMENTARY INFORMATION: Pub. L. 99-499, section 126(g), enacted on October 17 1986, authorizes a program of grants for the training and education of workers who are or are likely to be engaged in activities related to hazardous waste removal or containment or emergency response. The program is to be administered by the National Institute of Environmental Health Sciences. The intent of the Department of Health and Human Services to promulgate regulations to implement this new authority is announced in the latest HHS Regulatory Agenda, under the section for the National Institutes of Health, Public Health Service.

Section 126(g)(3) of Pub. L. 99-499 states that grants shall be awarded to nonprofit organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or are likely to be engaged in hazardous waste removal or containment or emergency response operations. In the Federal Register of December 19, 1986 [51 FR 45556] a full description of the program was given and the public was invited to an open meeting on this program on January 12, 1987

The purpose of this notice is to invite public comment on the regulations which will be used to implement the authorization contained in section 126(g) of Pub. L. 99-499. Up to $10 million per year for fiscal years 1987-1991 has been authorized to be appropriate to support

this grant program. These dollar amounts are budget ceilings and actual amounts will be appropriated each year consistent with the Federal budget process.

The following information is provided for the information of the public:

1. These proposed regulations would govern the award and administration of grants under section 126(g) of Pub. L. 99–499. The economic impact of this program is expected to be minor. For this reason, the Secretary had determined that this rule is not a "major rule under Executive Order 12291, and a regulatory impact analysis is not required. Further, these regulations will not have a significant economic impact on a substantial number of small entities, and therefore do not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

2. Catalog of Federal Domestic Assistance program number affected by this proposed rule is: 13.142

3. Section 64a.4 of these proposed rules contains information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980 [44 U.S.C. 3504(h)], we have submitted a copy of these proposed rules to the Office of Management and Budget for its review of these information collection requirements. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3206), Washington, DC 20503, Attn: Desk Officer for HHS.

4. These proposed regulations do not require either a Federalism or Family Impact analysis. There is no effect on states or on the role and responsibilities of the family, as defined in Executive Order 12291 on Federalism and Executive Order 12606 on the Family, because the NPRM merely describes the Secretary's authority to issue grants under this program.

List of Subjects in 42 CFR Part 64a

Education study programs, Grant programs—education, Grant programs—health, Manpower training programs.

Dated: March 3, 1989.

Robert E. Windom,

Assistant Secretary for Health.

Approved: May 5, 1989.

Louis W. Sullivan,

Secretary.

Accordingly, it is proposed to amend Title 42 of the Code of Federal Regulations to revise Part 64a to read as follows:

PART 64a—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES HAZARDOUS WASTE WORKER TRAINING

Sec.
64a.1 To what projects do these regulations apply?
64a.2 Definitions.
64a.3 Who is eligible to apply for a grant?
64a.4 Project requirements.
64a.5 How will applications be evaluated?
64a.6 How long does grant support last?
64a.7 For what purposes may grant funds be spent?
64a.8 What additional Department regulations apply to grantees?
64a.9 Additional conditions.

Authority: 42 U.S.C. 9660a.

§ 64a.1 To what projects do these regulations apply?

(a) These regulations implement the program of grants for the training and education of workers who are or are likely to be engaged in activities related to hazardous waste removal, or containment, or emergency response that is authorized by section 126(g) of the Superfund Amendments and Reauthorization Act of 1986.

(b) Grants are available for curriculum and training materials development, technical support of training, direct student training, training program evaluation and related activities. Target populations for this training are workers and supervisors who are or are likely to be engaged in:

(1) Waste handling and processing at active and inactive hazardous substance treatment, storage, and disposal facilities;

(2) Clean up, removal, containment or remedial actions at waste sites;

(3) Hazardous substance emergency response;

(4) Hazardous substance disposal site risk assessment and investigation, clean up, or remedial actions; and

(5) Transportation of hazardous wastes. Target populations may also be regulated under standards promulgated by the Secretary of Labor under section 126 of the Act.

(c) Two types of grants are available: program grants covering the full range of activities, including program development, direct worker training, and program evaluation; and planning grants.

(1) Planning grants are intended to assist organizations which demonstrate potential for providing hazardous worker training but need additional developmental efforts prior to initiation of full curriculum development and training activities. A limited number of one-year planning grants may be funded at a level determined appropriate by the Director. After successful completion of a one-year planning grant, a recipient may apply for a full program grant on a competitive basis.

(2) Full program grants will be awarded to organizations with demonstrated capability to provide worker health and safety training and education and demonstrated ability to identify, describe, and access target populations. Full program grantees must be able to immediately initiate curriculum development and worker training activities.

§ 64a.2 Definitions.

As used in this part:

Act" means the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99–499.

Award" or "grant" means a grant under section 126(g) of the Act.

"Director" means the Director, NIEHS, or any other officer or employee of NIEHS to whom the authority involved has been delegated.

"HHS" means the Department of Health and Human Services.

"NIEHS" means the National Institute of Environmental Health Sciences, an organizational component of the National Institutes of Health, as authorized by section 401(b)(I)(L) [42 U.S.C. 281] and section 463 [42 U.S.C. 2851] of the Public Health Service Act.

"NIH" means the National Institutes of Health.

"Nonprofit" as applied to any agency, organization, institution, or other entity means a corporation or association no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"Stipend" means a payment to an organization that is intended to help meet that organization's subsistence expenses for trainees during the training period.

"Training grant" means an award of funds to an eligible entity for a project authorized under #64a.1.

§ 64a.3 Who is eligible to apply for a grant?

Public and private nonprofit entities providing worker health and safety education and training may apply for grants under these regulations. Applicants for a grant may use services, as appropriate, of other public or private organizations necessary to develop, administer, or evaluate proposed worker training programs so long as the majority of the work is done by the applicant.

§ 64a.4 Project requirements.

In addition to meeting the requirements specified in the application, the instructions accompanying it, and the regulations referred to in Section 64a.8, each applicant must meet the following requirements:

(a) Two or more nonprofit organizations may join in a single application and share grant resources in order to maximize worker group coverage, enhance the effectiveness of training, and bring together appropriate academic disciplines and talents. Joint applications must describe the cooperative arrangements for program integration and effectiveness. Specific expertise, facilities, or services to be provided by each participating member must be identified.

(b) Each applicant must detail the nature, duration, and purpose of the training for which the application is filed. The proposed training program must meet the standards promulgated by the Secretary of Labor under section 126 of the Act, and such additional requirements as the Director may prescribe to assure appropriate health and safety training.

(c) The applicant must provide assurance that the applicant will not discriminate in the selection of trainees or instructors on the basis of membership or nonmembership in a union.

§ 64a.5 How will applications be evaluated?

(a) The Director shall evaluate applications through the officers and employees, and experts and consultants engaged by the Director for that purpose. The Director's first level of evaluation will be for technical merit and shall take into account, among other pertinent factors, the significance of the project, the qualifications and competency of the project director and proposed staff, the adequacy of selection criteria for trainees for the project, the adequacy of the detailed training plan, the adequacy of the applicant's resources available for the project, the amount of grant funds necessary for completion of its objectives, and how well the projects meet training criteria in OSHA's Hazardous Waste Operations and Emergency Response Regulation (29 CFR 1910.120). A second level of review will be conducted for program relevance.

(b) Within the limits of funds available, the Director may approve training grants for award to carry out those projects which have satisfied the requirements of these regulations; are determined by the Director to be technically meritorious; and in the judgment of the Director best promote the purposes of the grant program authorized by section 126(g) of the Act, the regulations of this part, and program priorities.

§ 64a.6 How long does grant support last?

(a) The notice of grant award specifies how long NIEHS intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 1–5 years.

(b) Generally, the grant will initially be for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decision regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices and the availability of funds. In all cases, continuation awards require a determination by the NIEHS that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 64a.7 For what purposes may grant funds be spent?

Individuals receiving training shall be entitled only to the stipends and allowances included in a budget approved by the Director, taking into account the cost of living and such other factors as the needs of the program and the availability of funds.

§ 64a.8 What additional Department regulations apply to grantees?

Several other regulations and policies apply to grants under this part. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedures
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 74—Administration of grants
45 CFR Part 76—Debarment and suspension from eligibility for financial assistance
45 CFR Part 80—Nondiscrimination under programs receiving federal assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefitting from federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in Health and Human Services programs and activities receiving federal financial assistance
45 CFR Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Effective October 1, 1988).

§ 64a.9 Additional conditions.

The Director may with respect to any award impose additional conditions prior to or at the time of any award when in his or her judgment such conditions are necessary to assure the carrying out of the purposes of the award, the interest of the public health, or the conservation of funds awarded.

[FR Doc. 89-14170 Filed 6-14-89; 8:45 am]
BILLING CODE 4140-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-563, RM-6078, RM-6710]

Radio Broadcasting Services; Dyersburg, TN, and Jonesboro, Hoxie, Newport, AR et al.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on optional proposals to substitute either Channel 244C2 for Channel 288A at Newport, Arkansas, or Channel 264C2 for Channel 244A Heber Springs, Arkansas, and the modification of the licenses of Station KOKR(FM) and Station KAWW(FM), respectively, at the request of Newport Broadcasting Co. In order to accomplish the upgrade at Newport (Option I), channel substitutions are necessary at Heber Springs, Channel 264A for Channel 244A and De Witt, Arkansas, Channel 247A for Channel 244A (currently occupied by Station KDEW-FM). The Heber Springs upgrade (Option II) requires the substitution of Channel 244A for Channel 288A at Newport. In addition, the optional proposals can be accomplished consistent with the petition by Dr Pepper Pepsi-Cola Bottling Company of Dyersburg, Inc., licensee of Station WASL(FM), Channel

261A, Dyersburg, Tennessee, proposing the substitution of Channel 261C2 for Channel 261A at Dyersburg. *See* 52 FR 49181, December 30, 1987 A first wide coverage area FM service could be provided at Dyersburg and either Newport and Heber Springs. Channel 244C2 at Newport requires a site restriction of 17.3 kilometers (10.7 miles) southwest of the city. The coordinates are 35-29-00 and 91-22-30. Channel 264C2 at Heber Springs requires a site restriction of 6.7 kilometers (4.2 miles) south of the community, at coordinations 35-25-52 and 92-01-54. Channel 261C2 at Dyersburg requires a site restriction of 6 kilometers (3.7 miles) west of Dyersburg, in addition to channel substitutions at Hoxie, Jonesboro and Newport, Arkansas.

DATES: Comments must be filed on or before August 3, 1989, and reply comments on or before August 18, 1989.

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: Edward S. O'Neill, Esquire, Peggy Kobacker Shiffrin, Esquire, Bryan, Cave McPheeters and McRoberts, Suite 1000, 1015 Fifteenth Street, NW Washington, DC 20005 (Counsels for Dr Pepper); Arthur H. Harding, Esquire, Fleischman and Walsh, P.C., 1725 N Street, NW., Washington, DC 20036 (Counsel for Newport Broadcasting Company); and Newport Broadcasting Company, P.O. Box 989, Blytheville, AR 72315.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rule Making, MM Docket No. 87-563, adopted May 22, 1989, and released June 12, 1989. 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 1.1204(b) 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.

The document also requests comments on four additional optional proposals. The allotment of Channel 244C2 to Newport, Arkansas, as that community's second local FM service, Option III. The substitution of Channel 264C2 for Channel 244A at Heber Springs, Arkansas and the allotment of Channel 244C2 to Newport, as a first wide area coverage service and a second local FM service, respectively, Option IV The allotment of Channel 264C2 to Heber Springs, as a second local FM service and the substitution of Channel 261C2 for Channel 261A at Dyersburg, Tennessee, as that community's first wide coverage area FM service, Option V Option VI which could permit substitutions of Channel 261C2 for Channel 261A at Dyersburg, Channel 264C2 for Channel 244A at Heber Springs and Channel 244C2 for Channel 288A at Newport, and provide each community with a first wide coverage area FM service.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-14252 Filed 6-14-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-132, RM-6705]

Radio Broadcasting Services; Whitewater, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Caribbean Broadcasting Corporation proposing the allotment of Channel 293A to Whitewater, Wisconsin, as that community's second local FM service. The proposed channel allotment requires a site restriction of 7.4 kilometers (4.6 miles) north of the city, at coordinates 44-54-02 and 88-44-01.

DATES: Comments must be filed on or before August 3, 1989, and reply comments on or before August 18, 1989.

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: Marvin Rosenberg, Esquire, Frank R. Jazzo, Esquire, Fletcher, Heald & Hildreth, 1225 Connecticut Avenue NW Suite 400, Washington, DC 20036 (Counsels for 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. 89-132, adopted May 23, 1989, and released June 12, 1989. 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 1.1204(b) 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.

Karl A. Kensinger,

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

[FR Doc. 89-14250 Filed 6-14-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-125, RM-6738]

Radio Broadcasting Services; Red Lodge, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Beartooth Stereo FM, proposing the substitution of Channel 257C for

Channel 258C1 at Red Lodge, Montana, and modification of the license for Station KAFM to specify Channel 257C. The coordinates for Channel 257C are 45-11-36 and 109-19-53.

DATES: Comments must be filed on or before August 3, 1989, and reply comments on or before August 18, 1989.

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: C.R. Crisler, Beartooth Stereo FM, Box 664, Fayetteville, Arkansas 72702.

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. 89-125, adopted May 22, 1989, and released June 12, 1989. 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 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Karl Kensinger,

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

[FR Doc. 89-14251 Filed 6-14-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-128, RM-6655]

Radio Broadcasting Services; Marlin, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by KRZI, Inc., licensee of Station KRXX(FM), Channel 225A Marlin, Texas, proposing the substitution of Channel 225C2 for Channel 225A at Marlin and modification of the station's license to specify operation on the higher class co-channel. A site restriction of 26.8 kilometers (16.7 miles) west of the city is required, at coordinates 31-22-48 and 97-09-42.

DATES: Comments must be filed on or before August, 1989, and reply comments on or before August 18, 1989.

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: Laura B. Humphries, Esqure, Leventhal, Senter & Lerman, Suite 600, 2000 K Street, NW., Washington, DC 20006-1809 (Counsel for petitioner); and Mr. Van D. Goodall, KRZI, Inc., 1018 N. Valley Mills Dr., Waco, TX 76710 (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. 89-128, adopted May 22, 1989, and released June 12, 1989. 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 to 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* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-19253 Filed 6-14-89; 8:45 am]

BILLING CODE 6712-10-M

47 CFR Part 73

[MM Docket No. 89-126, RM 6669]

Radio Broadcasting Services; Miramar Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Carol Renee Carter ("petitioner") seeking the allotment of Channel 292A to Miramar Beach, Florida, as its first local FM service. However, the petitioner is requested to provide additional information in an effort to establish that Miramar Beach is a *bona fide* "community" for allotment purposes. The coordinates for the allotment are North Latitude 30-22-30 and West Longitude 86-20-00.

DATES: Comments must be filed on or before August 3, 1989, and reply comments on or before August 18, 1989.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: David A. Gross, Sutherland, Asbill & Brennan 1275 Pennsylvania Avenue, NW., Washington, DC 20004-2404 (Attorney for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-126 adopted May 22, 1989, and released June 12, 1989. 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 1.1204(b) 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

Karl A. Kensinger,

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

[FR Doc. 89-14255 Filed 6-14-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-127; RM-6673]

Radio Broadcasting Services; Hilo, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Phillip Lee Brewer ("petitioner") seeking the substitution of Channel 250C1 for Channel 250C2 at Hilo, Hawaii, and the modification of its license for Station KKBG-FM to specify the higher powered channel. Channel 250C1 can be allotted to Hilo in compliance with the Commisison's minimum distance separation requirements and can be used at Station KKBG-FM's present transmitter site. The coordinates for this allotment are North Latitude 19-44-11 and West Longitude 155-01-48. In accordance with Section 1.420(g) of the Commission's rules, we shall not accept competing expressions of interest in use of Channel 250C1 at Hilo or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before August 3, 1989, and reply comments on or before August 18, 1989.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554. In addition to filling comments with the FCC, interested parties should serve the petitioners, on their counsel or consultant, as follows: Roger J. Metzler, McQuaid, Bedford, Brayton, Clausen and Metzler, 650 California Street, Suite 800, San Francisco, California 94108 (Attorney for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-127 adopted May 22, 1989, and released June 12, 1989. 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 1.1204(b) 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,

Karl A. Kensinger,

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

[FR Doc. 89-14254 Filed 6-14-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 350 and 390

[FHWA Docket No. MC-89-5]

RIN 2125-AC27

Federal Motor Carrier Safety Regulations; General; Commercial Motor Vehicle Definition

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: The FHWA issued an advance notice of proposed rulemaking (ANPRM) which was published in the **Federal Register** on February 17 1989 (54 FR 7224). Through this ANPRM, the FHWA requested comments from all interested parties regarding the issue of the gross vehicle weight rating (GVWR) criterion used to define a "commerical motor vehicle" subject to the Federal Motor Carrier Safety Regulations (FMCSRs). The comment period is scheduled to close on June 19, 1989. The FHWA has received requests from the American Association of Motor Vehicle Administrators (AAMVA), the American Trucking Associations (ATA), and the National Private Truck Council (NPTC) for an extension of the comment period. These organizations requested the extension to allow them more time to fully respond to the docket and to have the issues raised in the ANPRM discussed and voted on at their respective national meetings. Because of the significance of this ANPRM, the FHWA is granting this request for an extension.

DATE: Comments must be received on or before November 3, 1989.

ADDRESS: Submit written, signed comments to FHWA Docket No. MC-89-5, Room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m. ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P Kozlowski, Office of Motor Carrier Standards, (202) 366-2981, or Mr. Thomas P Holian, Office of the Chief Counsel, (202) 366-1350, Federal Highway Administraion, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The FMCSRs (49 CFR Parts 390-399) generally apply to the operation of commercial motor vehicles in interstate commerce. 53 FR 18042, 18052 (49 CFR 390.3). Commercial motor vehicles are defined to mean any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when: (a) The vehicle has a gross vehicle weight rating or gross combination wieght rating of 10,001 or more pounds; or (b) the vehicle is designed to transport more than 15

passengers, including the driver, or (c) the vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1813). 53 FR at 18053 (49 CFR 390.5). On February 27 1989, the FHWA published an ANPRM asking for comment on the issue of whether the GVWR criterion of the CMV definition should be changed from 10,000 lbs. to 26,000 lbs. 54 FR 7224. On April 3, 1989, the FHWA, at the request of the Maryland Department of Transportation, extended the comment period on the ANPRM to June 19, 1989. 54 FR 13391.

The FHWA has received a request from the AAMVA for a further extension of the comment period. The AAMVA has advised the FHWA that the issue of CMV size subject to Federal and/or State safety regulations has generated considerable debate within the law enforcement community

The AAMVA Police Traffic Services Subcommittee on Commercial Vehicle Enforcement has developed a draft recommendation requesting that the U.S. Department of Transportation review the FMCSRs weight threshold with the aim of increasing that threshold to 26,001 pounds. This recommendation will be presented to both the Regional and International Conferences of the AAMVA. In order to allow the AAMVA time to summarize and forward comments from these meetings, the FHWA is granting the AAMVA's request for an extension.

The FHWA also received separate requests from the ATA and the NPTC for extension of the comment period to November 3 and August 21. Both organizations cited similar reasons for their respective requests as stated by the AAMVA. As noted by both organizations, the issues raised in the ANPRM are significant and will have far-reaching impacts on the safety of all truck operations and the general public. They would like to address these issues at their respective national meetings. The ATA annual meeting is scheduled for October 30, 1989, and the NPTC Board of Directors will be meeting in late July. The comment period is therefore exended through November 3, 1989.

Authority: 49 U.S.C. App. 2505 and 3102; 49 CFR 1.48.

List of Subjects in 49 CFR Parts 350 and 390

Grant Programs—transportation, Highway safety, Highways and Roads, Motor Carriers, Motor Vehicle Safety.

(Catalog of Federal Domestic Assistance Program Number 20.217 Motor Carrier Safety)

Issued on: June 9, 1989.

R.D. Morgan,

Executive Director.

[FR Doc. 89–14270 Filed 6–14–89; 8:45 am]

BILLING CODE 4910-22-M

Notices

Federal Register
Vol. 54, No. 114
Thursday, June 15, 1989

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

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 9, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Extension

Animal and Plant Health Inspection Service.
7 CFR 322 Honeybees and Honeybee Semen
None
On Occasion
Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 40 responses; 5 hours; not applicable under 3504(h)
Phillip Lima (301) 436–8677

Animal and Plant Health Inspection Service.
7 CFR 319.76 Exotic Bee Diseases and Parasites
None
On occasion
Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 210 responses; 21 hours; not applicable under 3504(h)
Phillip Lima (301) 436–8677

Donald E. Hulcher,
Acting Departmental Clearance Officer.
[FR Doc. 89–14207 Filed 6–14–89; 8:45 am]
BILLING CODE 3410-01-M

Forest Service

Mendocino National Forest, Colusa County, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement (EIS) for a proposal to implement commercial timber sales within the South Fork Stony Creek watershed area on the Stonyford Ranger District; this EIS will encompass a portion of the Snow Mountain (#B5144) released-roadless area.

A range of alternatives for this area will be considered. One of these will be no road construction or timber harvest. Other alternatives will consider implementing intensive timber management activities (including harvest of timber and road construction) to low intensity timber management (minimal harvest with no road construction).

Federal and State, and local agencies; and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues of those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the watershed.

The Forest Supervisor will hold a public meeting at the Willows City Hall (Council Chambers), 201 N. Lassen St., Willows, California, at 7:00 p.m., on July 17 1989.

Daniel K. Chisholm, Forest Supervisor, Mendocino National Forest, is the responsible official.

The analysis is expected to take about 6 months. The draft environmental impact statement should be available for public review by January 1, 1990. The final environmental impact statement is scheduled for completion by March 1, 1990.

Written comments and suggestions concerning the analysis should be sent to James Giachino, District Ranger, Stonyford Ranger District, Mendocino National Forest, Stonyford, California, 95979, by August 20, 1989.

Questions about the proposed action and environmental impact statement should be directed to Janice Gauthier, Planning Forester, Stonyford Ranger District, Mendocino National Forest, Stonyford, California, 95979, phone 916–963–3128.

Date: June 8, 1989

Daniel K. Chisholm,
Forest Supervisor,
[FR Doc. 89–14279 Filed 6–14–89; 8:45 am]
BILLING CODE 3410-11-M

Willow Mountain Timber Sales and Roads, Rio Grande National Forest, Conejos County, CO

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to implement a number of timber sales, range and wildlife habitat improvement projects, water yield increase projects, and road building activities in the Willow Mountain area of the Conejos Peak Ranger District, Rio Grande National Forest.

DATE: Comments concerning the scope of the analysis should be received in writing by September 1, 1989.

ADDRESSES: Send written comments to James B. Webb, Forest Supervisor, Rio

Grande National Forest, 1803 W Hwy. 160, Monte Vista, Colorado 81144.

FOR FURTHER INFORMATION CONTACT: Robert L. Mitchell, Conejos Peak District Ranger, 21461 State Highway 285, La Jara, Colorado 81140 (719) 274-5193).

SUPPLEMENTARY INFORMATION: This environmental impact statement is being written because the proposed timber harvest and road building projects are expected to have long-term effects on the character of the area. In addition, the recreation opportunities will shift from a more roadless, semi-primitive form to more roaded natural opportunities.

The Rio Grande National Forest Land and Resource Management Plan (Forest Plan) was approved on January 4, 1985. The Forest Plan identified the Willow Mountain area as one scheduled to have timber and road building activities by 1991.

The implementation of the intent of the Forest Plan in the Willow Mountain area relates to issues identified during the scoping process of the environmental analysis for the Forest Plan. Questions were raised regarding how the Forest can best support local dependent industries, and how should the Forest respond to the increased demand for water. Another issue related to the Forest and it's ability to provide for primitive and semi-primitive recreation opportunities in the future. These issues were addressed in Chapters III and IV of the final environmental impact statement.

The Willow Mountain area is located in the south part of the Rio Grande National Forest-West Part, just west of La Jara, Colorado. The area comprises about 56,000 acres of forest and rangeland that is relatively undeveloped. The Willow Mountain area was considered for inclusion into the Wilderness System during the Roadless Area Review (RARE II) study of the 1970's. It was not included, and that decision was not appealed.

A range of alternatives will be presented and analyzed for environmetnal impacts. One of these will be the no action alternative, whereby no new management initiatives will be started in the area. Alternatives will include a variety of project combinations. Projects include timber sales for fiber production and utilization, wildlife habitat improvements, projects for water yield increases through vegetation treatments, and road building activities.

Federal, State, local agencies, concerned citizens, and other interested publics will be invited to share their issues and concerns regarding the Willow Mountain projects. This scoping process will include:

1. Identification of potential issues through public meetings, media, citizens participation groups, newsletters, open houses, and personal contacts.
2. Identification of issues to be dealt with in depth.
3. Elimination of insignificant issues.
4. Determination of potential cooperating agencies.

The analysis is expected to take about 6 months. The draft environmental impact statement should be available for public review by September 1, 1989. The final environmental impact statement is scheduled to be completed by January 1, 1990.

James B. Webb,

Forest Supervisor.

Date: May 30, 1989.

Document Origination and Source: USDA, Forest Service, R-2, Rio Grande National Forest, J. Rawinski, 3-7-89, 719-852-5941.

[FR Doc. 89-14258 Filed 6-15-89; 8:45 am]

BILLING CODE 3410-11-M

Northern Region; Exemption of Salvage Timber Sale Project From Appeal

AGENCY: Forest Service. USDA.

ACTION: Notification that a salvage timber sale project is exempted from appeals under provisions of 36 CFR Part 217

SUMMARY: This is a notification that the decision to implement the Cooke City Salvage Timber Sale in the area of the Storm Creek Fire on the Gallatin National Forest is exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published January 23, 1989, at Vol. 54, No. 13, pages 3342-3370.

EFFECTIVE DATE: Effective on issuance of the Decision Notice for the Cooke City Salvage Timber Sale.

FOR FURTHER INFORMATION CONTACT: Robert S. Gibson, Forest Supervisor, Gallatin National Forest, P.O. Box 130, Bozeman, MT 59715.

Background

In 1988, the Storm Creek fire burned over 46,000 acres of the Gallatin National Forest. Most of the burn was within the Absaroka-Beartooth Wilderness, but about 5000 acres was outside the wilderness, directly surrounding the communities of Cooke City and Silver Gate, Montana. Approximately 2500 acres of this is suitable for timber production. In September and October 1988, an interdisciplinary team surveyed much of the burned area to assess the damage to the resources that had occurred. Burn damage included damage to vegetation, soils, and water resources plus damage to habitat essential to the endangered grizzly bears and habitat for other major species of wildlife.

In October of 1988, the rehabilitation team treated the most severely burned areas on steep slopes by placing log erosion barriers and seeding with grasses. Other areas were only seeded with grass.

A Forest interdisciplinary team identified the need to salvage the timber which was burned in as short a time as possible so the logs would remain merchantable. Merchantable timber in the area averages 12" in diameter at breast height with relatively little defect. Rapid drying of fire-killed trees is resulting in cracking or "checking" especially of the smaller diameter trees, which will quickly reduce their utilization as sawlogs.

It is also desirable to complete the logging before the seedlings which will regenerate naturally are large enough to be damaged. During this first season following the fire, there will be very little germination of seed. In some areas, the scarification of the soils by the logging operations and the site preparation will facilitate the natural regeneration of the burned stands and establish new stands more quickly.

Planned Actions

Early in 1989 the Gallatin National Forest Supervisor proposed the salvage harvest of the burned timber outside wilderness. The environmental analysis of this action was begun in mid-January. The interdisciplinary team assigned to the analysis began with an initial scoping session on January 20, 1989. After public meetings, press releases, and contacts with individuals and State and Federal agencies, four major issues were identified. These were:

1. Whether to harvest in roadless areas.
2. Whether to construct logging roads and use logging equipment on steep, wet, or rocky sites of low productivity.
3. Whether removing the dead timber would reduce grizzly bear habitat security and increase the risk of grizzly/human confrontations.
4. Whether removing the dead timber would reduce moose habitat security.

The interdisciplinary team developed four alternatives to analyze, including the No Action Alternative. The effects of these alternatives are disclosed in an Environmental Assessment which was prepared for the proposal. The Proposed Action (Alternative C) would harvest

about 1300 acres of burned land and produce about 12 MMBF of timber. Approximately 5 miles of temporary logging roads would be constructed and obliterated after harvest. Roadless areas would not be entered and security area adjacent to the harvest areas would be left to provide for grizzly bear security during the harvest. Steep and wet and rocky lands would be avoided in this alternative. Analysis shows that this alternative is the most cost effective for meeting the objectives of salvage.

The U.S. Fish and Wildlife Service was consulted about the effects of this proposal on the grizzly bear. They concurred with the biological evaluation done by the Forest that the project would have "no effect" on the bear.

The sale and accompanying work is designed to accomplish the objectives as quickly as possible and minimize the amount of salvage volume lost. To expedite this sale project and the accompanying work, and to prevent delays by appeals, the process according to 36 CFR Part 217 is being followed. Under this Regulation the following is exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena such as wildfires when the Regional Forester determines and gives notice in the Federal Register that good cause exists to exempt such decisions from review under this part.

Upon publication of this notice, The Decision Notice for the Cooke City Timber Salvage Sale project will be signed by the Forest Supervisor. Therefore, this project will not be subject to review under 36 CFR Part 217

Date: June 7 1989.

Christopher D. Risbrudt,

Deputy Regional Forester, Northern Region.

[FR Doc. 89-14153 Filed 6-14-89; 8:45 am]

BILLING CODE 3410-11-M

Packers and Stockyards Administration

Amendment to Certification of Central Filing System of Mississippi

The Statewide central filing system of Mississippi has been previously certified, pursuant to Section 1324 of the Food Security Act of 1985, on the basis of information submitted by Dick Molpus, Secretary of State, for specified farm products produced in that State (51 FR 33647 September 22, 1986).

The certification is hereby amended on the basis of information submitted by Dick Molpus, Secretary of State, for all farm products produced in that State.

This is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Section 1324(c)(2), Pub. L. 99-198, 99 Stat. 1535, 7 U.S.C. 1631(c)(2); 7 CFR 2.17(e)(3), 2.56(a)(3), 51 FR 22795.

Dated: June 9, 1989.

Calvin W. Watkins,

Acting Administrator, Packers and Stockyards Administration.

[FR Doc. 89-14260 Filed 6-14-89; 8:45 am]

BILLING CODE 3410-KD-M

Soil Conservation Service

Camp Palmer Critical Area Treatment RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Camp Palmer Critical Area Treatment RC&D Measure, Fulton County, Ohio.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614) 469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for critical area treatment along 500 feet of a step streambank escarpment that is eroding and endangering adjacent cabins. Planned works of improvement include the placement of fill along the escarpment, moving the centerline of the creek, and the placement of rock riprap on the streambanks adjacent to the escarpment.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to full single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Joseph C. Branco.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Roger A. Hansen,

Deputy State Conservationist.

June 7, 1989.

[FR Doc. 89-14273 Filed 6-14-89; 8:45 am]

BILLING CODE 3410-13-M

Fayetteville School Land Drainage RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Fayetteville School Land Drainage RC&D Measure, Brown County, Ohio.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614) 469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for drainage improvement on eighteen acres of land the Fayetteville School uses for school and community activities. Planned works of improvement include

the installation of eighteen acres of systematical subsurface drainage to improve the use of the area for activities.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Joseph C. Branco.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Roger A. Hansen,

Deputy State Conservationist.

June 7 1989.

[FR Doc. 89-14274 Filed 6-14-89; 8:45 am]

BILLING CODE 3410-16-M

Kenton High School Land Drainage RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Kenton High School Land Drainage RC&D Measure, Hardin County, Ohio.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)-469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for drainage improvement of the land around the Kenton High School. Planned works of improvement include the installation of a grassed waterway with subsurface drain to carry away excess surface water.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Joseph C. Branco.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Roger A. Hansen,

Deputy State Conservationist.

June 7 1989.

[FR Doc. 89-14275 Filed 6-14-89; 8:45 am]

BILLING CODE 3410-16-M

Opossum Run Critical Area Treatment RC&D Measure, Ohio, Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Opossum Run Critical Area Treatment RC&D Measure, Paulding County, Ohio.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room, 522, Columbus, Ohio 43215, telephone: (614)-469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for critical area treatment along Garfield Avenue and Opossum Run Creek. The creek bank adjacent to Garfield Avenue is slipping and endangers the stability of Garfield Avenue. Planned works of improvement include the placement of rock riprap along 400 feet of Opossum Run, establishing a stable streambank slope and berm adjacent to Garfield Avenue, and establishing vegetation on the disturbed areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Joseph C. Branco.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Roger A. Hansen,

Deputy State Conservationist.

June 7 1989

[FR Doc. 89-14276 Filed 6-14-89; 8:45 am]

BILLING CODE 3410-16-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Polish People's Republic

June 9, 1988.

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

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: June 16, 1989.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

The current limits for certain wool and man-made fiber textile products are being increased variously, for carryover and swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937 published on November 7 1988). Also see 53 FR 49584, published on December 8, 1988.

The letter to the Commissioner of Customs 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.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 9, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 2, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, wool, man-made fiber silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Poland and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on June 16, 1989, the directive of December 2, 1988 is amend to include the following adjusted limits, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Polish People's Republic:

Category	Adjusted 12-month limit
Sublevel in Group I (Aggregate):	
611	1,394,142 square meters.
Sublevel in Group III:	
433	8,135 dozen.
435	6,935 dozen.
Group V:	
443/643/644	206,798 numbers.

The limits have not been adjusted to account for any imports exported after December 31, 1988.

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,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-14228 Filed 6-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of a Call Level for Certain Cotton and Man-Made Fiber Textile Products Exported From the Dominican Republic

June 12, 1989.

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

ACTION: Amending a previous notice announcing a request for consultations.

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

A **Federal Register** notice published on March 21, 1989 (54 FR 11560) announced that the United States Government requested consultations with the Government of the Dominican Republic with respect to imports of cotton and man-made fiber textile products in Categories 351/651. The notice further stated that, if no solution is agreed upon in consultations with the Dominican Republic, the Committee for the Implementation of Textile Agreements may establish a 12-month limit at 765,822 dozen for Categories 351/651.

The purpose of this notice is to advise the public that this limit is being amended to 944,744 dozen to take into account a previous specific limit for Category 351.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the Dominican Republic, further notice will be published in the **Federal Register.**

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-14296 Filed 6-14-89; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

The Joint Staff; National Defense University Board of Visitors

AGENCY: Department of Defense.

ACTION: Notice of Meeting.

SUMMARY: The President, National Defense University, has scheduled a meeting of the Board of Visitors.

DATE: The meeting will be held on July 10, 1989.

ADDRESS: The meeting will be held in the Hill Conference Center of Theodore Roosevelt Hall, Building #61, Fort Lesley J. McNair.

FOR FURTHER INFORMATION CONTACT: The Director, University Plans and Programs, National Defense University, Fort Lesley J. McNair, Washington, DC 20319-6000. To reserve space, interested persons should phone (202) 475-1145.

SUPPLEMENTARY INFORMATION: The agenda will include present and future educational and research plans for the National Defense University and its components. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

June 9, 1989.

[FR Doc. 89-14248 Filed 6-14-89; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Education Benefits Board of Actuaries

AGENCY: Department of Defense.

ACTION: Notice of Meeting.

SUMMARY: A meeting of the Board has been scheduled to execute the provisions of Chapter 101, title 10, United States Code (10 U.S.C. 2006(e) et. seq.). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the GI Bill and determine per capita normal costs to be implemented by DoD in FY89. Persons desiring to attend the DoD Education Benefits Board of Actuaries meeting must notify Ms. Dorothy Hemby at 696-6336 by July 17 1989. Notice of

this meeting is required under the Federal Advisory Committee Act.

DATE: July 20, 1989, 1:00 p.m. to 5:00 p.m.

ADDRESS: Room 1E801 (#1), the Pentagon (River Entrance).

FOR FURTHER INFORMATION CONTACT: Benjamin I. Gottlieb, Chief Actuary, DoD Office of the Actuary, 4th Floor, 1600 Wilson Boulevard, Arlington, Virginia 22209-2593, (202) 696-5869.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

June 9, 1989

[FR Doc. 89-14247 Filed 6-14-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Spain concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following retransfer:

RD-EU(SP)-19, for the transfer from Spain to France of 29 fuel elements and 4 fuel plates containing 31.040 kilograms of uranium, enriched to an average of 82 percent in the isotope uranium-235, for use in material test reactors within the European Community.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: June 12, 1989.

Richard H. Williamson,

Deputy Assistant Secretary for International Affairs

[FR Doc. 89-14293 Filed 6-14-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Application Filed With the Commission

June 9, 1989.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Transfer of License.

b. Project No.. 8436-042.

c. Date filed: May 1, 1989.

d. Applicant: Idaho Natural Energy, Inc. (Transferor) and Smith Falls Hydropower. (Transferee)

e. Name of Project: Smith Creek.

f. Location: On Smith Creek, in Idaho Panhandle National Forest, in Boundary County, Idaho.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact:

Transferor: Mr. Carl W. Barton, Prince, Yeates & Geldzahler, City Centre I, Suite 900, 175 East Fourth South, Salt Lake City, UT 84111, (801) 524-1000

Transferee: Mr. McNeill Watkins II, Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005, (202) 371-5785

i. FERC Contact: Michael Spencer at (202) 376-1669.

j. Comment Date: June 20, 1989.

k. Description of Proposed Action: On April 10, 1987 a major license was issued to Idaho Natural Energy, Inc. for the construction, operation, and maintenance of the Smith Creek project. It is proposed to transfer the license to Smith Falls Hydropower. The proposed transfer will not result in any changes to the proposed development. The Transferor certifies that it has fully complied with the terms and conditions of the license. The Transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

l. This notice also consists of the following standard paragraphs: B and C.

Standard Paragraphs

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS, "RECOMMENDATIONS FOR TERMS AND CONDITIONS, "NOTICE OF INTENT TO FILE COMPETING APPLICATION, "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE, as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: the Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 204-RB, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-14186 Filed 6-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-87-007]

Questar Pipeline Co., Tariff Filing

June 9, 1989.

Take notice that Questar Pipeline Company on June 5, 1989, tendered for filing and acceptance Substitute First Revised Sheet Nos. 81 and 106 to Original Volume No. 1-A of its FERC Gas Tariff.

Questar Pipeline states that this filing corrects certain typographical and transitional errors on tariff sheets that were filed in its May 22, 1989, compliance tariff filing in Docket No. RP86-87-005.

Questar Pipeline requests an effective date of June 1, 1989, and states it has provided a copy of this filing to Questar Pipeline's transportation and sales customers and interested public service commissions.

Any persons desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 N. Capitol St., NE., Washington, DC 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR

385.211 and 385.214). All such protests should be filed on or before June 16, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR. Doc. 89-14187 Filed 6-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-150-001]

Texas Eastern Transmission Corp., Proposed Changes in FERC Gas Tariff

June 8, 1989.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on June 2, 1989 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheet:

Substitute Original Sheet No. 483F

Texas Eastern states that this filing makes the revision to Texas Eastern's April 21, 1989 tariff filing in Docket No. RP89-150-000 as required by the Commission's May 19, 1989 order.

Texas Eastern states that it filed tariff sheets on April 21, 1989 in establish procedures to recover take-or-pay charges billed to Texas Eastern by Texas Gas Transmission Corporation (Texas Gas) proposed in Texas Gas's Docket No. RP89-119. Stating that the volumetric surcharge becomes an integral part of the sales or transportation rate to which it is attached and should not be separated from that rate and reassigned by the downstream pipeline,[1] the Commission in its May 19, 1989 Order directed Texas Eastern to eliminate a tariff reference to the recovery of Texas Gas's commodity surcharge through the PGA mechanism. Sheet No. 483F is being filed for the sole purpose of complying with the Commission's May 19, 1989 order by removing the above stated reference.

The proposed effective date of the above tariff sheet is May 1, 1989, the effective date granted by the Commission for Texas Eastern's original filing in Docket No. RP89-150-000 on April 21, 1989.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

May 19 Order Mimeo p. 1 (citation omitted).

Any person desiring to protest said filing should file a 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 protests should be filed on or before June 15, 1989.

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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-14188 Filed 6-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OR89-2-000]

Trans Alaska Pipeline System; Petition for Declaratory Order

June 8, 1989.

Take notice that on May 26, 1989, Amerada Hess Pipeline Corporation, ARCO Pipe Line Company, BP Pipelines (Alaska) Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company (collectively "the Carriers") filed a petition for declaratory order requesting that the Commission institute an investigation of certain provisions of the Carriers' tariffs governing transportation service provided on the Trans Alaska Pipeline System (TAPS). Specifically, the Carriers request that the Commission investigate the provisions of the Carriers' tariffs governing monetary adjustments among shippers for differences in the quality of their petroleum (the Quality Bank provisions). The Carriers request that that investigation be conducted in corporation with the Alaska Public Utilities Commission (APUC), where such an investigation is already pending, and that the Commission and the APUC conduct concurrent hearings. The Carriers seek a declaratory order from the Commission that the Interstate Commerce Act requires such monetary adjustments to be uniform, regardless of whether the shipments affected are interstate or intrastate. Finally, the Carriers seek a declaration by the Commission that the methodology presently used by the Carriers for determining the level of the Quality Bank adjustment, which has previously been approved by the Commission,[1] continues to be just and reasonable.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 358.214, 385.211 (1988)]. All such motions or protests should be filed on or before June 29, 1989. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-14189 Filed 6-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-52-000]

Western Gas Interstate Co., Proposed Changes in FERC Gas Tariff

June 9, 1989.

Take notice that Western Gas Interstate Company ("Western"), on June 5, 1989, tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet:

Sixteenth Revised Sheet No. 10

The proposed effective date for the tariff sheet is August 1, 1989.

Western also submitted for filing the following alternate tariff sheet:

Alternate Sixteenth Revised Sheet No. 10

The proposed effective date for the tariff sheet is August 1, 1989.

Western states that, among other things, its filing proposes changes to its rates in accordance with the terms of the Purchased Gas Adjustment Clause of its FERC Gas Tariff, which permits recovery of changes in the cost of gas and of unrecovered purchased gas costs.

Western further states that the proposed changes provide for under the primary sheet:

(1) a decrease in cost under Western's Rate Schedule G-N of 3.09 cents per Mcf; and (2) an increase in cost under Western's Rate Schedule G-S of 15.70 cents per Mcf.

See Trans Alaska Pipeline System, 29 FERC ¶ 61,123 (1984).

The primary sheet reflects the direct refund or direct billing of Account No. 191 balances as proposed by Western in Docket No. 89-179-000.

Western further states that the proposed changes in the case of the alternate sheet provide for:

(1) A decrease in cost under Western's Rate Schedule G-N of 0.45 cents per Mcf: and (2) a decrease in cost under Western's Rate Schedule G-S of 31.59 cents per Mcf.

Western states that it was unable to make a timely filing of the instant changes 60 days prior to the proposed effective date of August 1, 1989. For the reasons set forth in its filing, Western is requesting appropriate waivers of the Commission's Regulations in order for the tariff sheet to become effective on August 1, 1989.

Finally, Western states that copies of the filing were served upon Western's transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 29, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-14190 Filed 6-14-89; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1783]

Petitions for Reconsideration of Actions in Rule Making Proceedings

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW Washington, DC, or may be purchased from the Commission's copy contractor International Transcript Service (202-857-3800). Oppositions to these petitions must be filed July 3, 1989. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Pinewood, South Carolina).

Number of petitions received: 1.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-14166 Filed 6-14-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Agency Forms under Review

June 9, 1989.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9. Board-approved collection of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following report, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within five calendar days of the date of publication in the **Federal Register.**

ADDRESS: Comments, which should refer to the OMB Docket number should be addressed to Mr. William W Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 and 5:15 p.m. except as provided in 261(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB Desk Officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the request for clearance (SF 83), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

Proposal to approve under OMB delegated authority the extension, with revision, of the following reports:

1. *Report title:* Report of Selected Borrowings; Daily Telephone Report of Selected Borrowings; and Report of Repurchase Agreements on U.S. Government and Federal Agency Securities with Specified Holders

Agency form number: FR 2415; FR 2415a; and FR 2415t

OMB Docket number: 7100-0074

Frequency: Daily and Weekly

Reporters: Depository institutions

Estimated number of reporters: 112 (FR 2415); 15 (FR 2415a); 63 (FR 2415t)

Average number of hours per response: 3.75 (FR 2415); 0.33 (FR 2415a); 0.75 (FR 2415t)

Annual reporting hours: 25,584

Small businesses are affected.

General description of report: This information collection is voluntary [12 U.S.C. 248(a), 353 *et seq*] and is given confidential treatment [5 U.S.C. 552b(4) and b(8)].

This package of reports collects information on selected nonreservable borrowings. The weekly FR 2415 and 2415t, submitted by large commercial banks and thrifts, respectively, collect data on overnight and term repurchase agreements by type of customer. The data are necessary for the construction of the monetary aggregates. In addition, the FR 2415 obtains data on federal funds transactions and repurchase agreement lending. The FR 2415a collects information on repurchase agreements and federal funds from the large money center banks and subsequently provides the Open Market Trading Desk with timely information on these transactions for their market assessments.

Board of Governors of the Federal Reserve System, June 9, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-14220 Filed 6-14-89; 8:45 am]

BILLING CODE 6210-01-M

Banc One Corp. Columbus, OH; Proposal To Offer Investment Advice and Securities Brokerage Services on a Combined Basis to Institutional and Retail Customers and To Engage in Other Securities Related Activities

Banc One Corporation, Columbus, Ohio ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage *de novo* through its wholly owned subsidiary, Banc One Brokerage Corporation, Columbus, Ohio ("Company"), in offering combined investment advice and securities brokerage services to institutional and retail customers. Applicant also proposes that Company engage in investment advisory activities and bank-eligible securities underwriting pursuant to sections 225.25(b)(4) and 225.25(b)(16) of the Board's Regulation Y, respectively (12 CFR 225.25 (b)(4) and (b)(16)).

Company currently conducts discount brokerage activities pursuant to section 225.25(b)(15) of the Board's Regulation Y (12 CFR 225.25(b)(15)). Company would conduct the proposed activities on a nationwide basis.

Section 4(c)(8) of the Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "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 previously found the provision of combined investment advisory and securities brokerage services to institutional and retail customers to be closely related and a proper incident to banking, subject to certain commitments. *See, e.g., Bank of New England Corporation,* 74 Federal Reserve Bulletin 700 (1988).

Applicant proposes certain modifications to the combined investment advisory and securities brokerage services previously approved by the Board. Applicant intends that Company's employees will be paid commissions based on customer transactions involving mutual fund or unit investment trust shares. Applicant also proposes that Company be permitted to broker and recommend to customers shares of investment companies for which an affiliate serves as investment adviser, with disclosure to the customer.

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n* v. *Board of Governors,* 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 Federal Register 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider 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 interests, or unsound banking practices.

Any views or requests for a 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 July 3, 1989. Any request for a hearing must, as required by section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by 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, 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 Cleveland.

Board of Governors of the Federal Reserve System, June 9, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-14222 Filed 6-14-89; 8:45 am]

BILLING CODE 6210-01-M

First Financial Bancorp; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 89-4576) published at page 16164 of the issue for Friday, April 21, 1989.

Under the Federal Reserve Bank of Cleveland, the entry for First Financial Bancorp is amended to read as follows:

1. *First Financial Bancorp,* Monroe, Ohio; to acquire 100 percent of the voting shares of Union Trust Company, Union City, Indiana, which engages in general insurance agency activities in a town with a population of less than 5,000.

Comments on this application must be received by June 29, 1989.

Board of Governors of the Federal Reserve System, June 9, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-14223 Filed 6-14-89; 8:45 am]

BILLING CODE 6210-01-M

United States National Bank of Oregon; Application for Corporation to do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), The Edge Corporation would operate as a subsidiary of the applicant. The factors that are to be considered in acting on the application are set forth in section 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank listed for that notice. 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing. Any person wishing to comment on the application should submit views in writing to be received not later than July 7 1989.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, DC 20551.

1. *United States National Bank of Oregon*, Portland, Oregon; to establish an Edge Act Corporation to be known as U.S. Bank International, Portland, Oregon. This application may be inspected at the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, June 9, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-14221 Filed 6-14-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Health Care Financing Administration (HCFA), (49 FR 35247 dated September 6, 1984) is amended to include the Secretary's delegation of authority, to the Administrator, HCFA, to conduct a demonstration project to determine the cost-effectiveness of furnishing therapeutic shoes to Medicare beneficiaries with severe diabetic foot disease as authorized under section 4072(e) of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Pub. L. No. 100-203.

The specific change to Part F is described below:

Section F.30., Delegations of Authority, is amended by adding paragraph AA. The new delegation of authority reads as follows:

AA. The authority under section 4072(e) of the Omnibus Budget Reconciliation Act of 1987 Pub. L. No. 100-203, to conduct a demonstration project to test the cost-effectiveness of furnishing therapeutic shoes under the Medicare program to beneficiaries with severe diabetic foot disease.

Reservation of Authority

The authority to make reports to Congress under section 4072(e) of OBRA '87 has been reserved by the Secretary and is not included in this delegation.

The authority herein delegated may be redelegated. This delegation of authority is effective immediately. In addition, I hereby affirm and ratify any actions taken by you which, in effect, involved the exercise of the subject authority prior to the effective date of this delegation.

Date: June 5, 1989.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

[FR Doc. 89-14169 Filed 6-14-89; 8:45 am]

BILLING CODE 4120-03-M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meetings in July

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed agendas of the forthcoming meetings of the agency's advisory committees in the month of July 1989.

The Extramural Science Advisory Board, NIMH, will discuss the peer review process that evaluates all grant applications to the NIMH extramural research program. Attendance by the public will be limited to space available.

The initial review committees will be performing initial review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d).

Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92-463.

Committee Name: Biobehavioral/Clinical Subcommittee of the drug Abuse AIDS Research Review Committee, NIDA.

Date and Time: July 12-13: 9:00 a.m.

Place: Rockville Room, Holiday Inn, Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting: Open—July 12: 9:00-9:30 a.m., Closed—Otherwise.

Contact: Iris O'Brien, Room 10-42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443-2620.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Sociobehavioral Research Subcommittee of the Drug Abuse AIDS Research Review Committee, NIDA.

Date and Time: July 12-13: 9:00 a.m.

Place: Halpine Room, Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting: Open—July 12: 9:00-9:30 a.m., Closed—Otherwise.

Contact: H. Noble Jones, Room 10-42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Extramural Science Advisory Board, NIMH.

Date and Time: July 17-18: 8:30 a.m.

Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20857

Status of Meeting: Open.

Contact: Tony Pollitt, Room 17C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443-3175.

Purpose: The Committee advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institutes of Mental Health, on the direction, scope, balance, and emphasis of the Institute's extramural science programs.

Committee Name: Mental Health AIDS Research Review Committee, NIMH.

Date and Time: July 17-19, 8:30 a.m.

Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting: Open—July 17· 8:30-9:15 a.m., Closed—Otherwise.

Contact: Irma Fisher, Room 9C-15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (310) 443-6470.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and research training activities in the areas of psychoneuro-immunological, psychosocial, behavioral and psychological aspects of AIDS as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Substantive information, summaries of the meetings, and rosters of committee members may be obtained as follows: Ms. Camilla Holland, NIDA Committee Management Officer, Room 10-42, (301) 443-2620; Ms. Joanna Kieffer, NIMH Committee Management Officer, Room 9-105, (301) 443-4333. The mailing address for the above parties is:

Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

Date: June 8, 1989.

[FR Doc. 89-14163 Filed 6-14-89; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

[Announcement No. 941]

Development, Demonstration, and Evaluation of Statewide Public Health Surveillance Systems for Diabetes and Its Complications

Introduction

The Centers for Disease Control (CDC) announces that cooperative agreement applications are being accepted to assist State public health agencies in the development, demonstration, and evaluation of statewise public health surveillance systems for diabetes and its complications.

Authority

These cooperative agreements are authorized by section 301(a) [42 U.S.C. 241(a)] and section 317(k)(3) [42 U.S.C. 247b] of the Public Health Service Act, as amended.

Eligibility

Eligible applicants for this program are the official public health agencies of States, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, and the Republic of Palau. Eligibility is limited to official state and territorial health agencies for the following reasons: (1) The purpose of this project is to develop systems that can be used to conduct statewide surveillance; and, (2) because state health agencies are responsible for protecting the public health within their jurisdiction, they traditionally collect and have the most need for these data to plan programs and justify the expenditure of public funds.

Availability of Funds

Approximately $250,000 is available in Fiscal Year 1989 to fund up to three awards. Awards are expected to range from $75,000 to $125,000 with an average award of $83,000. It is expected that awards will begin on or about September 15, 1989, for a 12-month budget period within a 3-year project period. Continuation awards within the approved project period will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates may vary and are subject to change.

Purpose

The purpose of these cooperative agreements is to develop, demonstrate, and evaluate (particularly in states that currently do not have diabetes surveillance systems) diabetes surveillance systems that could be used for 1) formulating health policy; 2) planning and evaluating public health interventions and programs designed to reduce the burden of diabetes and its complications; and, 3) stimulating epidemiologic research to better define diabetes prevention and control efforts.

Program Requirements

1. Recipient Activities

A. Develop, implement and operate a surveillance system with objectives that are based upon the anticipated uses of the data, incorporating the needs of potential users.

B. Determine the end points to be measured by the system and the frequency with which they need to be measured or monitored.

C. Identify and obtain existing data sources through which these end points could be measured.

D. Develop new data collection systems only if gaps exist in existing data sources. (This is especially relevant for racial/ethnic minority populations). Projects funded through a cooperative agreement that involves collection of information from 10 or more individuals will be subject to review under the Paperwork Reduction Act.

E. Develop a systematic approach to consolidating, organizing, interpreting, and reporting data.

F Evaluate the surveillance system. Components of this evaluation should include the following:

—Usefulness of the system. Assess whether the system is meeting its objectives. Include a description of actions taken as a result of the data from the system.

—Acceptability of the system (i.e., willingness of participants in the system to provide accurate, complete, and timely data).

—Strengths and limitations of the data. Include a discussion of the representativeness of the data, the timeliness of the data, sources of error and bias in the data, and the ability to use the data to evaluate the impact of preventive and control efforts.

—The amount of resources (direct costs) required to operate the system. Include personnel resources, data costs, and cost of other resources (e.g., supplies, equipment, computer time).

—Recommendations for improving the quality and efficiency of the system.

—G. Provide for the maintenance of the surveillance system after completing the cooperative agreement.

—H. Collaborate in creating recommendations/guidelines for the development and operation of diabetes surveillance systems.

2. CDC Activities

A. Collaborate in the development of system design, including compilation of specified information in a periodic and standardized manner using uniform data elements, coding, and analytical techniques.

B. Assist in developing appropriate end points and in identifying and selecting appropriate data sources.

C. Assist in the development of appropriate evaluation strategies.

D. Assist in preparing surveillance reports.

E. Collaborate in developing recommendations/guidelines for establishing diabetes surveillance systems.

F Collaborate in developing appropriate descriptive and analytic techniques for the application of diabetes surveillance methodologies to chronic disease surveillance.

Evaluation Criteria

1. Initial Application

The initial application for a new project period will be reviewed and evaluated according to the following criteria:

A. Evidence of the applicant's understanding of the purpose and objectives of the project.

B. The soundness, practicality, and feasibility of the proposed approach and work plan for developing, demonstrating, and evaluting a surveillance system.

C. The applicant's understanding of the importance of minority group analyses.

D. The applicant's ability to provide the experienced staff and the resources necessary to perform and manage the project.

E. How well described are the availability and accessibility of potential data sources.

F The adequacy of the plan to evaluate the project.

G. Evidence of intent and plans to ensure the surveillance system is useful

in planning and evaluating public health interventions and programs and is responsive to the needs of users or surveillance data.

H. The adequacy of the plan to sustain the surveillance after the completion of the project period.

In addition, consideration will be given to the extent to which the budget is reasonable, adequately justified, and consistent with the intended use of the cooperative agreement.

2. Continuation Application

Continuation awards within the approved project period will be made on the basis of the following criteria:

A. The degree to which accomplishments in the prior budget period show that the applicant is meeting the objectives.

B. The extent to which the objectives for the new budget period are consistent with the purpose of the cooperative agreement and the long-term objectives and are specific, realistic, measurable, and time related.

C. The extent to which proposed changes in the need for support, long-term objectives, methods of operation, evaluation plans, or personnel are likely to enhance or diminish the success of the project.

In addition, consideration will also be given to the extent to which the budget request and proposed use of project funds are appropriate and reasonable.

Funding Priorities

Priority will be given to eligible applicants developing new diabetes surveillance systems rather than enhancing existing diabetes surveillance systems.

E.O. 12372 Review

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.988.

Application Submission and Deadline

The original and two copies of the application (form PHS-5161-1, 3/89) must be submitted to Candice Nowicki-Lehnherr, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305, on or before July 10, 1989.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of a timely mailing.)

2. Late Applications: Applications that do not meet the criteria in either 1. a. or b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, and an application package may be obtained from Marsha D. Driggans, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305, (404) 842-6575 or FTS 236-6575.

Please refer to Announcement Number 941 when requesting information or submitting an application in response to the Request for Assistance.

Technical assistance may be obtained from Stephen J. Sepe, Epidemiologist, Division of Diabetes Translation, Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control, Atlanta, Georgia 30333, (404) 639-1826 or FTS 236-1826.

Dates: June 8, 1989.

Robert L. Foster,

Acting Director, Office of Program Support Centers for Disease Control.

[FR Doc. 89-14215 Filed 6-14-89; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 89D-0195]

Certificate of Free Sale; Compliance Policy Guide; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of revised Compliance Policy Guide (CPG) 7150.01 "Certificate of Free Sale. CPG 7150.01 has been revised to express the agency's current policy regarding issuance of a "Certificate of Free Sale, "Certificate for Export, "Certificate to Foreign Governments, or similar statement in response to a request for certification of an export.

ADDRESSES: Submit written requests for single copies of CPG 7150.01 to the Division of Compliance Policy (HFC-230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 Requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist that office in processing your requests. CPG 7150.01 is available for public examination in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857 between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ernest L. Brisson, Division of Compliance Policy (HFC-230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857

SUPPLEMENTARY INFORMATION: FDA receives requests for "Certificates of Free Sale" or similar requests from firms desiring to export products subject to the Federal Food, Drug, and Cosmetic Act and other acts administered by FDA. Many foreign countries require assurances, through certification, from an official U.S. government agency that products offered for entry into their country comply with U.S. laws for distribution in domestic commerce. However, laws administered by FDA do not provide for the kind of continuous supervision over regulated products that would be required for FDA to provide unqualified assurances concerning the compliance status of individual product lots. Thus, FDA's certification for export products must be limited to factual statements regarding the known compliance status of the product.

CPG 7150.01, "Certificate of Free Sale" (formerly titled "Requests for Certificate of Free Sale") has been revised to express the agency's current policy regarding issuance of a "Certificate of Free Sale, "Certificate for Export, "Certificate to Foreign Governments, or a similar statement in response to a request for certification of an export.

This notice is issued under 21 CFR 10.85.

Dated: June 9, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-14240 Filed 6-14-89; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Application Announcement for Cooperative Agreements with Statewide Organizations for Development of Comprehensive Primary Health Care Services

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications are being accepted from qualified statewide organizations for cooperative agreements to provide assistance in the development and coordination of comprehensive primary health care services in areas that lack adequate health manpower or have populations lacking access to primary health care services. It is expected that approximately $4 million will be available for approximately 30 new and competing continuation agreements, averaging $130,000 each. It is anticipated that funding for new agreements will be very limited. These agreements will be entered into under the authority of section 333(g) of the Public Health Service Act.

DATE: To receive consideration, grant applications must be received by the appropriate Regional Grants Management Officer by July 17 1989, to be considered timely. Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be accepted as proof of timely mailing. Applications which do not meet the deadline will be considered late and will be returned to the applicant.

ADDRESS AND FURTHER INFORMATION: Application kits (Form PHS-5161 with revised facesheet DHHS Form 424, as approved by the Office of Management and Budget under control numbers 0348-0006 and 0937-0189) and additional information may be obtained from, and completed applications should be sent to, the appropriate Regional Grants Management Officer (see Appendix). This program is centralized in the Public Health Service headquarters in Rockville. However, individuals in the regional offices of the Department (Regional Grants Management Officers) are designated as having preliminary review and recommendation authority under the Department's procedures to implement the recentralization authority under Pub. L. 100-386 "The Community and Migrant Health Centers Amendment of 1988" Additional information about the program can be obtained from Ms. Bonnie Lefkowitz, Director, Special Programs Branch, Division of Primary Care Services, Bureau of Health Care Delivery and Assistance, at 5600 Fishers Lane, Rockville, Maryland 20857 Room 7A-55, (301) 443-2270.

SUPPLEMENTARY INFORMATION: In order to qualify for a cooperative agreement, an applicant must be a State or a State agency or another Statewide public or private nonprofit entity that operates solely within one State and must complete an application with sufficient detail to satisfy the Secretary that it is able to carry out the health services delivery and systems integration functions required by the program. In addition, evaluations of the applications will address the following issues related to the cooperative agreement program:

1. *Mission:* Are the stated goals of the cooperative agreement consistent with HRSA's goals for assuring access to primary health care for the underserved populations most in need? An application under this announcement should describe the relationship between the State's programs and individual Community Health Centers and Migrant Health Centers (C/MHCs) and should describe the participation of the State primary care association, if any, in establishing and implementing the goals of the cooperative agreement.

2. *Structure/organization:* Is the entity responsible for the cooperative agreement located in a position organizationally within the State government or otherwise able to assure that it can bring together the various State, local and other agencies that impact or could impact on primary health care for the underserved? The application should demonstrate understanding by the entity's staff about programs for the delivery and financing of primary health care. Priority consideration in the award of cooperative agreements will be given to applicants which are State agencies due to their inherent ability to coordinate the activities of States and to deal with health issues on a statewide basis.

3. *State primary care activities:* To what extent will the State contribute funds, resources and/or technical assistance for the provision of primary health care to the underserved? If the State has a primary care office, are the cooperative agreement activities coordinated with that office? If State resources are available for primary care generally, do C/MHCs receive some of these resources?

The cooperative agreement should be the focus, to the extent possible, for State recommendations on the awarding of primary care service grants and for statewide efforts to plan, coordinate and implement primary care delivery systems.

4. *State manpower activities:* Does the State express a commitment to assure an adequate supply of qualified health care providers for underserved populations and is this commitment carried out through or coordinated with the cooperative agreement activities? The application should address the organizational and functional relationships, including staffing and manpower benefits to C/MHCs, that may result from the State manpower efforts. The cooperative agreement should be the focus for Federal health personnel placement, including recruitment and assignment of National Health Service Corps (NHSC) personnel. The application should also address State manpower programs/initiatives, including loan repayment programs, Area Health Education Centers (AHECs) and training grants; malpractice policies and training/continuing medical education activities.

5. *State Maternal and Child Health (MCH) activities:* Are State MCH activities, including the Women's Infants' and Children's food programs (WIC) and Family Planning programs coordinated with primary care programs for the underserved through the cooperative agreement activities? State activities should benefit and involve C/MCHs through, for example, contracting for services with the C/MHCs or encouraging the participation of C/MHCs in the grants for Special Projects of Regional and National Significance (SPRANS).

6. *State activities for other special populations:* Are State activities regarding other special populations coordinated with primary care programs for the underserved through the cooperative agreement activities? State activities should involve C/MHCs as providers of primary health care services to these special populations, including new immigrants, migrant and seasonal farmworkers, the homeless, the elderly, substance abusers and HIV infected persons.

7. *Financing:* Are State programs of public financing for primary care to the underserved coordinated with primary care service delivery programs through cooperative agreement activities and do State public financing programs in their administration, treat C/MHCs

equitably? Applications should address issues of prepayment, reimbursement rates for C/MHCs, enrollment of providers, range of benefits, and eligibility levels.

Applicants will be evaluated competitively on the basis of their relative ability to carry out the goals of the cooperative agreement program as determined by the Secretary, based on an evaluation of cooperative activities issues listed above.

In conducting this evaluation, the Secretary will also consider:

The ability of the applicant to integrate (or the progress the applicant has made in integrating) existing State and local resources with Federal assistance and health care delivery programs. Priority will be given to applicants that demonstrate use of combined resources in coordinated primary health care service delivery.

Evidence that the applicant will be able to enter (or has entered) into a formal Memorandum of Agreement with the organization (if any) representing a majority of Federally funded C/MHCs within the State.

The ability of the applicant to achieve the objectives of the cooperative agreement with cost-effective expenditure of funds.

The applicant's plans to secure maximum self sufficiency and minimize dependence upon and need for subsequent Federal support.

Federal responsibilities under the cooperative agreements, in addition to the usual monitoring and technical assistance provided directly or by grants, will include the following:

1. Exercise of responsibility for final authority on the award of Federal grants, Federal health personnel placement, and overall stewardship and program management of Federal resources in the context of fulfilling the State program as developed under the agreement;

2. Participation in the development of statewide efforts to coordinate and implement primary care delivery systems; and

3. Assistance in the identification of special populations needing service within the State and assistance with the development of program approaches for reaching special populations for entry into the primary health care system and referral to specialized services.

Other Award Information

All agreements to be established under this notice are subject to the provisions of Executive Order 12372 as implemented by 45 CFR Part 100, which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages will contain a listing of States which have chosen to set up such a review system and will provide a point of contact in the States for that review. Since 60 days are allowed for this review, applicants are advised to discuss projects with and provide copies of their applications to contact points as early as possible. At the latest, an applicant should provide the application to the State for review at the same time it is submitted to the Bureau of Health Care Delivery and Assistance.

Catalog of Federal Domestic Assistance

The cooperative agreements for development and coordination of comprehensive primary health care services are listed as No. 13.130 in the OMB Catalog of Federal Domestic Assistance.

Dated: May 1, 1989.

John H. Kelso,

Acting Administrator.

Appendix—Regional Grants Management Officers

Mary O'Brien, DHHS–Region I, John F Kennedy Federal Building, Room 1400, Boston, MA 02203, (617) 565–1482

Thomas Butler, DHHS–Region II, 26 Federal Plaza, Room 3337 New York, NY 10278, (212) 264–4496

Walter H. Ihle, Jr., DHHS–Region III, Room 10140, Mail Stop 14, P.O. Box 13716, 3535 Market Street, Philadelphia, PA 19104, (215) 596–6653

Wayne Cutchens, DHHS–Region IV 101 Marietta Tower, Suite 1121, Atlanta, GA 30323, (404) 331–2597

Lawrence Poole, DHHS–Region V 105 West Adams, Chicago, IL 60603, (312) 353–8700

Frank Cantu, DHHS–Region VI, 1200 Main Tower Building, Dallas, TX 75202, (214) 767–3885

Hollis Hensley, DHHS–Region VII, 601 East 12th Street, Room 501, Kansas City, MO 64106, (816) 426–5841

Jerry F Wheeler, DHHS–Region VIII, 1961 Stout Street, Denver, CO 80294, (303) 884–4461

Alan Harris, DHHS–Region IX, 50 United Nations Plaza, San Francisco, CA 94102, (415) 556–2595

Neal Adams, DHHS–Region X, 2201 Sixth Avenue, Mail Stop RX 20, Seattle, WA 98121, (206) 442–7997

[FR Doc. 89–14238 Filed 6–14–89; 8:45 am]

BILLING CODE 4160–15–M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Malonaldehyde, Sodium Salt

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on the toxicology and carcinogenesis studies of malonaldehyde, sodium salt. Malonaldehyde occurs as a natural metabolic byproduct of prostaglandin biosynthesis and as an end product of polyunsaturated lipid peroxidation.

Toxicology and carcinogenesis studies of malonaldehyde, sodium salt were conducted by administering the chemical by gavage to groups of 50 F344/N rats of each sex at doses of 0, 50, or 100 mg/kg, five days per week for 103 weeks. Doses of 0, 60, or 120 mg/kg were administered on the same schedule to groups of 50 male and 50 female $B6C3F_1$ mice.

Under the conditions of these 2-year gavage studies, there was clear evidence of carcinogenic activity [1] for male and female F344/N rats administered malonaldehyde, sodium salt, as shown by the increased incidences of follicular cell adenomas or carcinomas (combined) of the thyroid gland. Pancreatic islet cell adenomas were also observed at an increased incidence in low dose male rats. There was no evidence of carcinogenic activity for $B6C3F_1$ mice administered 60 or 120 mg/kg malonaldehyde, sodium salt, in distilled water by gavage 5 days per week for 2 years.

Chemically related increased incidences of nonneoplastic lesions included ulcers and inflammation of the glandular stomach and epithelial hyperplasia of the forestomach; corneal inflammation, retinal atrophy, and cataracts of the crystalline lens; and cystic degeneration of the liver, bile duct fibrosis, and bile duct hyperplasia in rats. Most of these nonneoplastic lesions as well as the thyroid gland follicular cell neoplasms occurred primarily in the high dose rat groups, in which survival and final body weights were reduced in high dose male and female rats. Increased incidences of atrophy of the pancreatic acinus and pigmentation loss in hair shafts were seen in high dose mice.

The study scientist for this bioassay is Dr. J. W. Spalding. Questions or comments about the content of this Technical Report should be directed to Dr. Spalding at P.O. Box 12233, Research

[1] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of evidence of carcinogenicity observed in each animal study: two categories for positive results ("clear evidence" and "some evidence); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); and one category for experiments that cannot be evaluated because of major flaws ("inadequate study").

Triangle Park, NC 27709 or telephone (919) 541-7936; FTS: 629-7936.

Copies of *Toxicology and Carcinogenesis Studies of Malonaldehyde, Sodium Salt in F344/N Rats and B6C3F$_1$ Mice (Gavage Studies)* (TR 331) are available without charge from the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-3991; FTS: 629-3991.

Dated: June 8, 1989.

David P Rall,

Director.

[FR Doc. 89-14185 Filed 6-14-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-89-1917· FR-2606]

Unutilized and Underutilized Federal Buildings and Real Property Determined To Be Suitable for Use for Facilities to Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

DATE: June 15, 1989.

ADDRESS: For further information, contact Morris Bourne, Department of Housing and Urban Development, Room 9140, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 755-9075; TDD number for the hearing- and speech-impaired (202) 426-0015. (These telephone numbers are not toll-free.).

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, D.C.D.C. No. 88-2503-OG, HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Date: June 8, 1989.

James E. Schoenberger,

General Deputy, Assistant Secretary for Housing-Federal, Housing Commissioner.

[FR Doc. 89-14257 Filed 6-14-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

[AA-323-09-4211-02-2410]

Bureau of Land Management

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0009), Washington, DC 20503, telephone number 202-395-7340.

Title: Land Use Application and Permit.

OMB Approval Number: (1004-0009).

Abstract: The regulations at 43 CFR 2920 provide for non-Federal use of Bureau administered land via lease, permit or easement. Uses include agriculture, trade or manufacturing concerns and business uses such as outdoor recreation concession. BLM will determine the validity of uses proposed by private individuals and other qualified proponents from information provided by the proponent on the Land Use Application and Permit form.

Bureau Form Number: 2920-1.

Frequency: Once.

Description of Respondents: Individuals, State and local government entities, and other qualified proponents applying for use of Bureau administered land via lease, permit or easement.

Estimated Completion Time: 7.43 hours.

Annual Responses: 435.

Annual Burden Hours: 3,230.

Bureau Clearance Officer: Rick Iovaine 202-653-8853.

Date: May 26, 1989.

Billy R. Templeton,

Acting Assistant Director, Land and Renewable Resources.

[FR Doc. 89-14174 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-84-M

[AA-323-09-4211-02]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0060), Washington, DC 20503, telephone number 202-395-7340.

Title: Application for Transportation and Utility Systems and Facilities on Federal Lands, Pub. L. 96-487 (Also applicable for 43 CFR 2800 and 2880)

OMB Approval Number: (1004-0060).

Abstract: Respondents supply information as to their identity and address and the nature, location and potential impacts of the proposed facility. The information enables the using agency to identify and communicate with the applicant and to locate and evaluate the effect of the proposed facility on the environment and other land uses.

Bureau Form Number: SF-299.

Frequency: On occasion.

Description of Respondents: Applicants for rights-of-way on Federal lands.

Estimated Completion Time: 2 hours.

Annual Responses: 4,300.

Annual Burden Hours: 8,600.

Bureau Clearance Officer: Rick Iovaine 202-653-8853.

Date: May 26, 1989.

Billy R. Templeton,

Acting Assistant Director, Land and Renewable Resources.

[FR Doc. 89-14175 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-84-M

[AA-320-09-4211-02-2410]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the information and collection requirement 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 extension of the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0107), Washington, DC 20503, telephone number 202-395-7340.

Title: 43 CFR 2800 and 2880, Rights-of-Way.

OMB Approval Number: (1004-0107).

Abstract: This information, supplied by an applicant for a right-of-way, is needed for the authorized officer to determine whether or not a right-of-way may be granted, establish terms and conditions of the grant, and administer the grant when made.

Bureau Form Number: N/A

Frequency: Once when an application is filed.

Description of Respondents: Applicants needing a right-of-way on Federal lands.

Estimated Completion Time: 16.8 hours.

Annual Responses: 1,000.

Annual Burden Hours: 16,800.

Bureau Clearance Officer: Rick Iovanie 202-653-8853.

Date: May 26, 1989.

Billy R. Templeton,

Acting Assistant Director, Land and Renewable Resources.

[FR Doc. 89-14176 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-84-M

[AA-320-09-4212-02]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0056), Washington, DC 20503, telephone number (202) 395-7340.

Title: Exchanges—General Procedures, 43 CFR 2200.

OMB approval number: (1004-0056).

Abstract: This information collected is necessary for the initiation and completion of a land exchange with the Bureau of Land Management. The information would aid the Bureau in determining the non-Federal party's eligibility and whether all statutory requirements have not been met.

Bureau form number(s): (N/A).

Frequency: Once.

Description of respondents: Citizens of the United States, corporations, subject to the laws of any State or of the United States, a State, or a political subdivision of a State desiring to propose an exchange of lands or interests in lands.

Estimated completion time: 4 hours each report.

Annual responses: 130.

Annual burden hours: 520.

Bureau clearance officer: (Alternate) Rick Iovaine 202-653-8853.

May 24, 1989.

Billy R. Templeton,

Acting Assistant Director, Land and Renewable Resources.

[FR Doc. 89-14177 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-84-M

[OR-087-4333-02; PG9-186]

Closures and Restrictions; Yaquina Head Outstanding Natural Area, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closures and restrictions, Yaquina Head Outstanding Natural Area, Oregon.

SUMMARY: To fulfill the specific administrative mandate set forth in the Act of Congress dated March 5, 1980 (Pub. L. 96-199), and in accordance with 43 CFR 8364.1, notice is hereby given that the closures and restrictions listed below apply to lands within the Congressionally established Yaquina Head Outstanding Natural Area. This 100-acre area is located in Lincoln County, Oregon, along the Pacific Coast in Sections 29 and 30, T. 10 S., R. 11 W., Willamette Meridian.

1. The area is open to public visitation and use during daylight hours and closed at night.

2. Overnight camping is prohibited.

3. Domestic pets are not permitted on lands west of the centralized parking area at the tip of the headland (seeing-eye and hearing-ear dogs excepted). Elsewhere on the headland, domesticated pets must be physically restrained at all times.

4. Walking and hiking are limited to developed interior access roads, parking areas and foot trails.

5. Engaging in or soliciting any business is prohibited.

6. Hunting, shooting firearms, and igniting fireworks or other explosive devices are prohibited.

7. Damaging or removing plant and animal specimens or cultural resources are prohibited.

8. It is prohibited to enter an area posted as closed.

9. Flying radio-controlled model airplanes or kites is prohibited.

10. Hang gliding set up, launch, and flying are restricted to historically-used sites located east of the ridge which forms the western wall of the upper quarry. North of NW Lighthouse Drive (formerly known as Ocean Drive), hang gliding activity is not regulated seasonally and use may continue throughout the year. South of NW Lighthouse Drive, hang gliding activity is prohibited from March 1 through August 31, while unregulated use may occur throughout the remainder of the year.

11. Monitorized travel is limited to developed interior access roads and parking areas.

12. Research projects and scientific studies are regulated by permit.

This closure and restriction notice does not apply to:

1. Any Federal, state, or local official or member of an organized rescue, medical, or fire fighting unit while in the performance of fire, emergency, law enforcement, or other similar duty;

2. Any Bureau of Land Management, U.S. Coast Guard, or U.S. Fish and Wildlife Service employee, agent, contractor, or cooperator while in the performance of an official duty; and

3. Any person or member of a group or institution expressly authorized by permit, license, agreement, or other similar authorization while in the performance of activities covered by the authorization.

Copies of this closure and restriction notice are available at the Bureau of Land Management, Salem District Office, 171 Fabry Road SE, Salem, Oregon 97306.

Any person who violates this closure and restriction notice may be subject to a maximum fine of $1,000 and/or imprisonment not to exceed 12 months under authority of 43 CFR 8360.0-7

This closure and restriction notice supersedes the Notice of Closures and Restrictions, Yaquina Head Outstanding Natural Area, Oregon, published in the **Federal Register**, Vol. 52, No. 35, on February 23, 1989 (52 FR 5503). Furthermore, this closure and restriction order is effective immediately and shall remain in effect until revised, revoked, or amended.

SUPPLEMENTARY INFORMATION: The Act of Congress dated March 5, 1980 (Pub. L. 96-199), directed the Secretary of the Interior to administer the Yaquina Head Outstanding Natural Area in such a manner as will best provide for:

1. The conservation and development of the scenic, natural, and historic values of the area;
2. The continued use of the area for purposes of education, scientific study, and public recreation which do not substantially impair the purposes of which the area was established; and
3. Protection of the wildlife habitat of the area.

The purpose of this closure and restriction notice is to provide a means by which the Secretary of the Interior through the Bureau of Land Management, may control and manage public use of the area to effectively carry out the specific mandate set forth in the Act.

FOR FURTHER INFORMATION, CONTACT: Kathy J. Liska, Site Supervisor, Yaquina Head Outstanding Natural Area, Bureau of Land Management, P.O. Box 936, Newport, Oregon 97365 (telephone 503/265-2863).

Richard C. Prather,

Yamhill Area Manager.

[FR Doc. 89-14284 Filed 6-14-89; 8:45 am]

BILLING CODE 4130-33-M

[OR-054-4351-12; GP-195]

Permanent Seasonal Closure of Public Lands; Oregon

June 7 1989.

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: Notice is hereby given that effective immediately all public lands as legally described below are closed seasonally to all vehicle access and travel with the exception of existing roads. This closure will be in effect from midnight, March 14, to midnight, May 31, annually.

This closure is part of the Horn Butte Long-billed Curlew Management Plan and is intended to protect the curlew during its normal breeding, nesting and brood-rearing period. The long-billed curlew is currently listed as a Category 2 Candidate species. This listing identifies those species which are being considered for addition to the list of Endangered the Threatened Wildlife. While Category 2 species do not receive the protection of listed species, it is the Bureau of Land Management's policy to manage its lands in a manner which may prevent listing as threatened and endangered.

The only exception to this order would be for authorized administrative use and emergency needs.

Township 2 North, Range 22 East of the Willamette Meridian

Section 2: All
Section 3: All
Section 8: SE¼
Section 10: All
Section 11: All
Section 12: All
Section 14: N½
Section 15: N½N½

Township 3 North, Range 22 East of the Willamette Meridian:

Section 4: S½, S½NE¼, SE¼NW¼
Section 14: W½
Section 22: W½, W½E½, NE¼NE¼
Section 26: SW¼SW¼
Section 27· S½SW¼
Section 34: All

The authority for this closure is 43 CFR 8341.2

This designation becomes effective upon publication in the **Federal Register** and will remain in effact until rescinded or modified by the Prineville District Manager. Information and maps are available at the Bureau of Land Management, Prineville District Office, 155 East 4th Prineville, OR 97754, Telephone (503) 447-4115.

Donald L. Smith,

Acting District Manager.

[FR Doc. 89-14288 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-33-M

[NV-060-09-4333-02]

Battle Mountain District Advisory Council Meeting in Battle Mountain, NV

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Battle Mountain District Advisory Council will be held on Thursday, July 13, 1989. The meeting will convene at 9 a.m. in the Shoshone Eureka Conference Room at the Battle Mountain District Office.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include.

1. Opportunities for Recreation Development;
2. Cumulative Environmental Impacts and Mining; and
3. Update on Riparian Management.

The meeting is open to the public. Interested persons may make oral statements between 2:30 and 3:00 p.m. on July 13, 1989. If you wish to make an oral statement, please contact James D. Currivan, District Manager, by 4:30 p.m. July 7 1989.

FOR FURTHER INFORMATION CONTACT: James D. Currivan, District Manager, P.O. Box 1420, Battle Mountain, Nevada 89820 or phone (702) 635-5181.

Date Signed: June 6, 1989.

Michael C. Mitchell,

Acting District Manager, Battle Mountain, Nevada.

[FR Doc. 89-14292 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-HC-M

[AZ-020-09-4213-01]

Phoenix District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Phoenix District Advisory Council.

DATE: July 18, 1989, 9:00 a.m.

ADDRESS: 2015 West Deer Valley Road, Phoenix, Arizona 85027

SUMMARY: The Phoenix District Advisory Council of the Bureau of Land Management meets July 18, 1989. The meeting will be held at the Phoenix District Office, 2015 West Deer Valley Road, Phoenix, at 9:00 a.m.

The Council has been established by and will be managed according to the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The agenda for the meeting includes:

—Land Exchanges
—Barry M. Goldwater Bombing Range Plan
—Phoenix Resource Management Plan Amendment
—BLM Management Updates
—Business from Floor
—Public Comments and Statements
—Future Meetings and Agenda Topics

SUPPLEMENTARY INFORMATION: This is a public meeting and the presentation of oral statements or the submission of written statements that address the

issues on the meeting agenda or related matters are welcome.

Dated: June 6, 1989.

Henri R. Bisson,

District Manager.

[FR Doc. 89-14285 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-32-M

[UT-050-09-4410-08]

Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: District advisory council meeting.

SUMMARY: The Richfield District Advisory Council will hold a meeting and field tour on July 11 and 12, 1989. The business meeting will be on July 11 in the Fillmore Area Office, 15 East 500 North, Fillmore, Utah, starting at 10:00 a.m. The agenda for the meeting is as follows:

1. District drought conditions.
2. The exchange in the Deep Creek Mountains.
3. Electronic Combat Test Capability.
4. Update on the District Recreation Program.
5. Update on the Wilderness Program.
6. Mining operations in WSA's.
7. Riparian management.
8. Update on the Henry Mountain CRM.

A field tour is scheduled for July 12 to review the rehabilitation efforts on the Clear Spot project work along with reviewing the Crystal Peak Mineral development.

The meeting is open to the public and interested persons may make oral statements to the Council between 2:00 p.m. and 3:00 p.m. or file written comments for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

Date: June 7, 1989.

Larry R. Oldroyd,

Associate District Manager, Richfield District Office.

[FR Doc. 89-14286 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ040-09-4351-02 SPCA]

Meeting of the San Pedro Advisory Committee

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 100-696 and 43 CFR 1780, that a meeting of the San Pedro Riparian National Conservation Area Advisory Committee will be held.

DATE: Tuesday, July 25, 1989 at 10:00 a.m.

ADDRESS: Chapman College, 77 Calle Portal, Suite C 200, Sierra Vista, Arizona.

FOR FURTHER INFORMATION: Erick Campbell, San Pedro Project Manager, BLM, Box 9853, Rural Rte. 1, Huachuca City, Arizona 85616. Telephone (602) 457-2265.

SUPPLEMENTARY INFORMATION: The agenda for the first meeting of the newly established San Pedro Advisory Committee includes the following items:

1. Introduction of members.
2. Nomination and election of Chairperson and Vice Chairperson.
3. Briefing on San Pedro Management Plan.
4. Briefing on San Pedro Monitoring Plan.
5. Management Update and Business from the Floor.

The meeting is open to the public. Interested persons may make oral statements to the Advisory Committee between 11:00 and 11:30 a.m. or may file written statements for consideration by the Advisory Committee. Anyone wishing to make an oral statement must contact the BLM San Pedro Project Manager by Friday, July 21, 1989. Depending upon the number of people wishing to make oral statements, a per person time limit may be considered.

Summary minutes of the meeting will be maintained in the San Pedro Project Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Date: June 8, 1989.

Ray A. Brady,

District Manager.

[FR Doc. 89-14287 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-32-M

[ES-970-09-4120-04; FLES 32578]

Proposed Class II Reinstatement; Okaloosa, AL

AGENCY: Bureau of Land Management, Interior.

ACTION: Class II Reinstatement.

SUMMARY: Proposed reinstatement of terminated oil and gas lease FLES 32578.

FOR FURTHER INFORMATION CONTACT: Ivy Garcia at (703) 461-1452.

SUPPLEMENTARY INFORMATION: Federal oil and gas lease FLES 32578, for certain lands located in T. 5 N., R. 24 W., Okaloosa County, Alabama, terminated automatically by operation of law on October 1, 1988 (30 U.S.C. 188).

A petition for a Class II Reinstatement was filed by Mr. Thomas Connell (lessee) under Section 31D of the Mineral Leasing Act of 1920, as amended by the Federal Oil and Gas Royalty Management Act of 1982 (96 Stat. 2447).

The lessee has met all of the following requirements for a Class II Reinstatement:

(a) $500..... Administrative Fee.
(b) $130..... Publication Cost.
(c) $7,560..... Back Rental Payment.

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre or portions thereof per year, and royalty at a rate of not less than 16⅔ percent beginning October 1, 1988.

Terry L. Plummer,

Associate State Director.

[FR Doc. 89-14283 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-GJ-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Fairbanks, AK

May 25, 1989.

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48685-T has been received covering the following lands:

Fairbanks Meridian, Alaska
T. 22 S., R. 2 E.,
Sec. 33 SENW.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from December 1, 1988, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48685-T as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease,

effective December 1, 1988 subject to the terms and conditions cited above.

Sue A Faughr,

Acting Chief, Branch of Mineral Adjudication.

[FR Doc. 89-14289 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-JA-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Fairbanks, AK

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48685-U has been received covering the following lands:

Fairbanks Meridian, Alaska
T. 22 S., R. 2 E.,
Sec. 33 SESE.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from December 1, 1988, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48685-U as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective December 1, 1988, subject to the terms and conditions cited above.

Sue A Faughr,

Acting Chief, Branch of Mineral Adjudication.

[FR Doc. 89-14290 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-JA-M

[MT-920-09-4111-11; SDM 74840]

Proposed Reinstatement of Terminated Oil and Gas Lease; Harding County, SD

Under the provisions of Pub. L. 97-451, a petition for reinstatement of oil and gas lease SDM 74840, Harding County, South Dakota, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $7 per acre and 16⅔ percent respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: June 6, 1989.

June A. Bailey,

Chief, Leasing Unit.

[FR Doc. 89-14291 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-DN-M

[ES-030-09-4212-11; ES-20066-011]

Realty Action; Recreation and Public Purposes Classification—Land Classification for Recreation and Public Purposes, Carlton County, MN; Correction

SUMMARY: This notice corrects the total acreage of land being patented to the State of Minnesota, Department of Natural Resources as published in the **Federal Register** on December 1, 1988, Volume 53, No. 231, page 48588. The correct acreage is 4.30 acres.

FOR FURTHER INFORMATION CONTACT: Milwaukee District, Bureau of Land Management, Suite 225, 310 W Wisconsin Avenue, Milwaukee, Wisconsin 53203.

Chris Hanson,

Acting District Manager.

[FR Doc. 89-14282 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-GJ-M

[NM-920-09-4120-10]

San Juan River Regional Coal Team (RCT); Availability of Revised Draft Data Adequacy Standards for New Mexico and Colorado

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability.

SUMMARY: Revised draft Data Adequacy Standards for the San Juan River Coal Region are available upon request beginning Friday, June 16, 1989. There will be a 30-day public comment period.

DATES: Public comments on the revised draft Data Adequacy Standards are requested by Monday, July 17 1989. Comments should be sent to Russell Jentgen at the address shown below.

ADDRESS: Copies of the revised draft Data Adequacy Standards may be obtained from either Russell Jentgen or Ed Heffern, Bureau of Land Management, New Mexico State Office, Branch of Solid Minerals, NM (921), P.O. Box 1449, Santa Fe, New Mexico 87504-1449, telephone (505) 988-6109.

FOR FURTHER INFORMATION CONTACT: Russell Jentgen or Ed Heffern at the above address or telephone number.

SUPPLEMENTARY INFORMATION: The revised draft Data Adequacy Standards spell out levels of data to be acquired prior to the competitive leasing of Federal coal tracts, whether in the lease by application or regional leasing mode. Data standards are proposed for geology, soils, water, vegetation, wildlife, air, socioeconomics, cultural resources, paleontology, and land use disciplines within the San Juan River Region.

The standards are being prepared by a multidisciplinary task force composed of Federal and State resource specialists. The task force was appointed and guided by the San Juan RCT. The Data Adequacy Standards are being prepared, with public input, at the direction of the Department of the Interior as an outcome of the supplemental EIS to the Federal Coal Management Program.

The first draft of the Data Adequacy Standards was released on March 3, 1989, for a 45-day public comment period. We received eleven written comments, which ranged from one-page general policy statements to nine pages of detailed suggestions. Respondents included one utility company, one mining association, four individuals from State agencies, three BLM offices, and two other Federal agencies. Several public comments on the first draft perceived some standards as directed more to mine plan than pre-lease requirements, and lacking flexibility for the RCT to modify requirements on a case-by-case basis. Other comments asked that the standards emphasize determinations to be made rather than specific methods, that they be more flexible for small tracts next to existing operations, and that they address Indian concerns and needs of the Clean Water Act. In addition, it was pointed out that San Juan River is the first coal region to have to apply data adequacy standards to a specific surface mine lease application (the Fence Lake Project).

The RCT discussed these comments at its meeting on April 28, 1989, and decided that the task group would redraft the standards and send them out by mid-June for another 30-day comment period. After the close of this period and analysis of the comments, the RCT chairman would poll the team as to

whether a meeting is required to discuss and approve the standards. The date of August 24, 1989, has been reserved if a meeting is needed.

Larry L. Woodard,

Chairman, San Juan River Regional Coal Team.

Dated: June 5, 1989.

[FR Doc. 89-14191 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-FB-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-738296

Applicant: New York Zoological Society, Bronx, NY.

The applicant requests a permit to export red blood cells and plasma samples taken from a female Asian elephant (*Elephas maximus*) that has been in captivity at the Bronx Zoo since 1976. The samples are to be sent to Dr. Graham Burton, National Research Council, Division of Chemistry, Ottawa, Canada, for scientific research purposes.

PRT-738510

Applicant: Roar Foundation, Acton, CA.

The applicant requests a permit to export one pair of captive born Siberian tigers (*Panthera tigris altaica*) to the Beijing Zoo, People's Republic of China, for display and breeding purposes.

PRT-738264

Applicant: University of California, San Diego, La Jolla, CA.

The applicant requests a permit to import naturally shed hair and samples of blood of captive gibbons (*Hylobates lar*) and (*H. pileatus*) from Thai Zoological Organizations, Dusit Zoo, Bangkok, Thailand for the purpose of genetic research.

PRT-738755

Applicant: Hawthorn Corporation, Grayslake, IL.

The applicant requests a permit to import two male captive born tigers (*Panthera tigris*) from Japan. The tigers will be imported for purposes of exhibition and captive breeding. In the future, the applicant will export and reimport these animals for the same purposes.

PRT-738751

Applicant: International Animal Exchange, Inc., Ferndale, MI.

The applicant requests a permit to import one captive born female cheetah (*Acinonyx jubatus*) from the Wassenaar Zoo, Wassenaar, Holland, for sale to the Jackson Zoological Park, Jackson, Mississippi. The Jackson Zoo intends to use the cheetah for breeding and display purposes.

PRT-738554

Applicant: Ernest W Foster, Jr., Worcester, MA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captive herd maintained by Mr. F W.M. Bowker, Jr., Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-738275

Applicant: Audubon Zoological Garden, New Orleans, LA.

The applicant requests a permit to purchase in interstate commerce one pair of golden conures (*Aratinga guarouba*) from Mr. Ed Locke, Largo, Florida, for captive breeding purposes. The birds were hatched in captivity at Busch Gardens, Tampa, Florida, and subsequently sent to Mr. Locke. Audubon Zoo will trade one captive-hatched hyacinth macaw (*Anodorhynchus hyacinthinus*) to Mr. Locke for the golden conures.

PRT-738519

Applicant: Michael Werner, Rock Springs, WY.

The applicant requests a permit to import the sport-hunted trophy of one make bontebok (*Damaliscus dorcas dorcas*) to be culled from the captive herd maintained by Mr. F W.M. Bowker, Jr., Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 432, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the the Director, U.S. Office of Management Authority, P.O. Box 3507 Arlington, Virginia 22203-3507

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: June 9, 1989.

R.K. Robinson,

Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89-14173 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-55-M

Availability of a Final Environmental Impact Statement on Atlantic Salmon Restoration in New England

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Final Environmental Impact Statement on Atlantic Salmon Restoration in New England is available for public review. Comments and suggestions are requested. As the result of extensive review and comment by state agencies, conservation organizations, those involved with the hydropower industry, and interested private citizens on the Draft EIS, a modified Proposed Action has been developed. The principal change from the Draft EIS is in the list of rivers in New England that are targeted for restoration over the next 30 years. The Project Area is composed of nine New England coastal drainage basins from the Connecticut River to the St. Croix River plus the U.S. portions of two tributaries to the St. John River.

The Proposed Action will restore self-sustaining Atlantic salmon populations to the Connecticut, Pawcatuck, Merrimack, Saco, Union, Androscoggin, Kennebec, Penobscot, St. Croix, Meduxnekeag, and Aroostook Rivers by the Year 2021. Existing Service facilities would be used, without need for new fish hatcheries. The Service will stock over 5.3 million juvenile Atlantic salmon annually until self-sustaining populations are established in the target rivers. The retro-fitting or upgrading of fish passage facilities will be necessary at 105 existing dams. Fully restored annual salmon runs are projected to total an average 38,000 adults, and provide 90,000 man-days of sport fishing. Total discounted costs of the 30-year program is estimated to be $79.4 million compared to an estimated benefit of $87.8 million.

DATES: Written comments are requested by August 15, 1989.

ADDRESS: Comments should be addressed to Ronald E. Lambertson, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Massachusetts 02158.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph W Abele or Dr. Dan C.

Kimball, One Getway Center, Newton Corner, Massachusetts 02158, telephone (617) 965-5100.

Individuals wishing copies of the FEIS should contact Dr. Kimball at the above address and telephone number (extension 208). Copies are being sent to groups and individuals who received the DEIS. Copies will be available for examination at the U.S. Fish and Wildlife Service Regional Office in Newton Corner, Massachusetts.

SUPPLEMENTARY INFORMATION: This Final Environmental Impact Statement addresses the restoration of Atlantic salmon to New England rivers where native populations have become extinct. It describes a Proposed Action and two Alternative Actions. The Proposed Action represents the continuation of the current Atlantic salmon restoration program that was initiated prior to the National Environmental Policy Act. It addresses eleven river basins where the restoration of self-sustaining populations is deemed feasible.

Alternative #1 represents a geographically limited implementation of the Proposed action. It would restore self-sustaining Atlantic salmon populations to those historical salmon rivers that are highest priority within each of the six New England states. These rivers are the Penobscot, St. Croix, Merrimack, Pawcatuck, and Connecticut Rivers. The same level of Service resources would be applied towards achieving restoration on these five rivers as is described for the Proposed Action. The resultant restored population would be approximately 25,000 adults or 34% less than the proposed action. A commensurate decline would occur in the sport harvest. New fish passage facilities would be required at 68 dams rather than 105 as under the Proposed Action. The present day value of all costs for Alternative #1 is 14% less than that of the Proposed Action.

Alternative #2 is the "No Action" alternative. It calls for the Service to terminate all discretionary actions relative to the restoration of Atlantic salmon and to carry out only legislatively mandated activities.

Alternative #2 eliminate the use of federal hatcheries for Atlantic salmon restoration and the associate field evaluation activities (habitat surveys, tagging, monitoring adult runs, etc.). Service research activities directed at Atlantic salmon restoration would essentially cease. The role of federal grant administration to the states remains essentially unchanged. The statutory responsibilities to review, comment, recommend or prescribe mitigation to protect wildlife and fisheries resources in federally funded, permitted, or licensed projects also remain unchanged. It is assumed that the states currently producing salmon would maintain these programs, and would not expand them to replace the current Federal commitment of resources and production facilities. It is also assumed that mitigation measures incorporated into hydro operation licenses would not include requirements that licensees provide salmon smolts, fry or hatchery facilities. The projected sustainable adult salmon runs from past Service and future state restoration activities is 4,000, which would support a sport harvest of 800 salmon and 10,000 man days of recreational fishing.

James F. Gillett,

Acting Regional Director.

June 6, 1989.

[FR Doc. 89-14281 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-65-M

National Park Service

Environmental Statements, Mining in Alaska National Park System Units

AGENCY: Extension of comment period on draft environmental impact statements and availability of information.

ACTION: Extension of comment period on draft Environmental Impact Statements and availability of information.

SUMMARY: The comment period for the Denali National Park and Preserve, Wrangell-St. Elias National Park and Preserve, and Yukon-Charley Rivers National Preserve draft environmental impact statements (DEIS) has been extended to August 14, 1989. Comments on the DEISs may be submitted to Steven Hunt, Project Coordinator, Minerals Management Division, National Park Service, Alaska Regional Office, 2525 Gambell St., Anchorage, Alaska 99503.

This notice also announces the availability of technical background material and environmental information used in developing the DEISs including the baseline values used for determining quantitative cumulative environmental impacts for target resources. This information is available for public review at the National Park Service, Alaska Regional Office at the above address.

Copies of the DEISs are available on request from the National Park Service, Alaska Regional Office (telephone (907) 275-2616), the Alaska Public Lands Information Center at 605 West Fourth Avenue, Anchorage, and the Alaska Public Lands Information center at 250 Cushman, Suite 1A, Fairbanks.

Date: June 9, 1989.

James W. Steward,

Acting Associate Director, Planning and Development.

[FR Doc. 89-14158 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

[DES 89-13; Navajo Mining Lease No. 14-20-0603-8580 and Joint Use Area Mining Leases Nos. 14-20-0450-5743 and 14-20-0603-9910]

Availability of the Draft Environmental Impact Statement, on Proposed Permit Application for Black Mesa-Kayenta Mine, Navajo and Hopi Indian Reservations, AZ

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

ACTION: Notice of availability of a draft environmental impact statement (OSMRE-EIS-25).

SUMMARY: The Office of Surface Mining Reclamation and Enforcement OSMRE is making available a draft environmental impact statement (EIS) on the proposed permit application for the Black Mesa-Kayenta mine. The EIS has been prepared to analyze the probably impacts on the human environment should the permit application submitted by Peabody Coal Company (PCC) for the Black Mesa-Kayenta mine be approved with conditions or disapproved. The operation is located approximately 125 miles northeast of Flagstaff, Arizona, and 10 miles southwest of Kayenta, Arizona. OSMRE is requesting that any interested party submit written comments on the draft EIS. In addition to receiving written comments, five public meetings will be held by OSMRE from August 7 1989, to August 11, 1989, at various locations to receive oral comments on the draft EIS.

DATES: *Comment Period:* Written comments on the draft EIS must be received by 4:00 p.m. (MDT), August 18, 1989 at the location listed below, under **ADDRESSES.**

Public Meetings: The following public meetings have been scheduled to receive comments on the draft EIS.

August 7 1989: Flagstaff, Arizona; 7 p.m. (local time), Best Western Little America Motel, American "B" Conference Room, 2515 East Butler Avenue.

August 8, 1989, Moenkopi, Arizona; 7 p.m. (local time), Moenkopi Community Building.
August 9, 1989, Kykotsmovi, Arizona; 2 p.m. (local time), Hopi Tribe Council Chambers.
August 10, 1989, Kayenta, Arizona; 7 p.m. (local time), Kayenta Chapter House.
August 11, 1989, Window Rock, Arizona; 2 p.m. (local time), North Conference Room, Navajo Tribal Council Chambers.

ADDRESSES: Written comments and/or requests for additional copies of the draft EIS should be hand-delivered or mailed to Peter A. Rutledge, Chief, Federal Programs Division, Office of Surface Mining Reclamation and Enforcement, Western Field Operations, Brooks Towers, Second Floor, 1020—15th Street, Denver, Colorado 80202, Attention: Sarah E. Bransom.

FOR FURTHER INFORMATION CONTACT: Sarah E. Bransom, Black Mesa-Kayenta mine EIS Project Leader (telephone: 303-744-2891) at the Denver, Colorado, location given under **ADDRESSES.**

SUPPLEMENTARY INFORMATION: The Black Mesa-Kayenta mine, located approximately 125 miles northeast of Flagstaff, Arizona, and 10 miles southwest of Kayenta, Arizona, consists of two separate but adjacent existing mining operations—the Black Mesa mine, which produces approximately 5 million tons of coal per year, and the Kayenta mine, which produces approximatley 7 million tons of coal per year.

The proposed life-of-operations permit area would cover 62,753 acres of Hopi and Navajo tribal lands. PCC proposes to disturb 13,618 acres of land within the proposed life-of-operations permit area. PCC plans to produce 292 million tons of coal through the year 2011 and conduct reclamation related activities through the year 2032.

OSMRE has previously issued PCC two permits to mine coal at the mining complex. Between 1970 and December 31, 1985, mining activities disturbed approximately 4,480 acres within these two permit areas. The proposed Federal permit would (1) encompass the previously issued permits under one permit, (2) authorize PCC to disturb an additional 13,618 acres through the year 2023, and (3) authorize PCC to upgrade a number of existing mining-related facilities to meet current Federal performance standards.

The two alternatives evaluated in the EIS are (1) approval with conditions or (2) disapproval of the following three actions: OSMRE would approve the permit application package and issue a Federal permit with conditions; the Bureau of Land Management would approve the life-of-mine mining plan; and the U.S. Army Corps of Engineers would issue a Section 404 permit. OSMRE has identified "approval of the proposed permit applications with conditions" as the preferred alternative.

Date: June 8, 1989.

John H. Farrell,

Acting Director, Office of Environmental Project Review.

[FR Doc. 89-14168 Filed 6-14-89; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-309X]

Cimarron River Valley Railway Co.—Discontinuance Exemption in Pawnee and Payne Counties, OK

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the discontinuance of operations by Cimarron River Valley Railroad over 25.47 miles of track leased from The Atchison, Topeka and Santa Fe Railway Company (ATSF), which extends from milepost 59.38 at Camp, Pawnee County, OK to milepost 84.85 at Cushing, Payne County, OK. Abandonment of this line by ATSF was approved in Docket No. AB-52 (Sub-No. 27), *The Atchison, Topeka and Santa Fe Railway Company—Abandonment—In Pawnee and Payne Counties, OK* (not printed), certificate and decision served June 25, 1984.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 17 1989. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by June 26, 1989, petitions to stay must be filed by June 30, 1989, and petitions for reconsideration must be filed by July 10, 1989.

ADDRESSES: Send pleadings referring to Docket No. AB-309X to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Peter A. Greene, Thompson, Hine and Flory, 1920 N Street, NW Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. TDD for hearing impaired: (202) 275-1721.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD Service (202) 275-1721.)

Decided: June 7, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Vice Chairman Simmons, joined by Commissioner Lamboley dissented with a separate expression.

Kathleen M. King,

Acting Secretary.

[FR Doc. 89-14264 Filed 6-14-89; 8:45 am]

BILLING CODE 7035-01-M

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

[Finance Docket No. 31424]

Acquisition by Tampa Bay & Western Transportation, Inc., of a CSX Transportation, Inc., Line Between Sulphur Springs and Broco, FL, Decision

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: The Commission is accepting for consideration the application filed May 12, 1989, by Tampa Bay & Western Transportation, Inc. (TBWT), the Estate of Roger L. Putnam, and CSX Transportation, Inc. (CSX), for TBWT to acquire the 55.34-mile CSX Line between Sulphur Springs and Broco, FL, and to issue securities to finance the transaction. Pursuant to 49 CFR Part 1180, the Commission finds this to be a minor transaction.

DATES: Written comments must be filed with the Interstate Commerce Commission no later than July 10, 1989. Comments from the Secretary of Transportation and Attorney General of the United States must be filed by July 25, 1989. Applicants' reply is due August 14, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245. [TDD for hearing impaired: (202) 275-1721.]

ADDRESSES: An original and 10 copies of all documents must be sent to: Office of the Secretary, Case Control Branch,

Attn: Finance Docket No. 31424, Interstate Commerce Commission, Washington, DC 20423.

In addition, one copy of all documents in this proceeding must be sent to each of applicants' representatives:

Lawrence H. Richmond, CSX Transportation, Inc., 100 North Charles Street, Baltimore, MD 21201.

Kevin M. Sheys, Weiner, Mccaffrey, Brodsky, & Kaplan, P.C., 1350 New York Avenue, NW., Washington, DC 20005-4797

SUPPLEMENTARY INFORMATION: In an application filed May 12, 1989, Tampa Bay & Western Transportation, Inc. (TBWT), the Estate of Roger L. Putnam, and CSX Transportation, Inc. (CSX), seek approval under 49 U.S.C. 11343, *et seq.*, for TBWT to acquire a 55.34-mile CSX line between Sulphur Springs and Broco, FL. The applicants contend that this transaction meets the criteria for a minor transaction under 49 CFR 1180.2(c), and they submitted a conforming application in accordance with the railroad consolidation regulations at 49 CFR Part 1180. They also seek authority under 49 U.S.C. 11301 to issue securities to finance the transaction.

TBWT is a motor carrier with nationwide general commodities authority. It presently provides service to a patron in the Tampa, FL area, shipping frozen seafood to various points in the United States. It will be a Class III railroad following the proposed transaction. TBWT is a closely held corporation. The Estate of Roger L. Putnam controls it, but does not control any other carriers. CSX is a Class I common carrier by railroad operating in 19 states, the District of Columbia, and the Province of Ontario, Canada. It is a unit of CSX Corporation.

The line sought to be acquired includes: (1) Track from Sulphur Springs, FL (milepost SR-838.26), to Brooksville Yard, FL (milepost SR-792.98); (2) the Broco Spur, from Brooksville Yard to Broco, FL (4.33 miles); (3) the Shands Spur, from Brooksville to Shands (1.84 miles); and (4) Busch Leads #1 (2.91 miles) and #2 (0.98 miles) in Tampa, FL. The line has about 100 active patrons. Freight moving over it consists principally of malt liquors, coal, limestone, cement, and lumber. It carriers no overhead traffic. In 1987 CSX handled about 7,450 carloads originating on the line, and about 6,200 carloads in the first 10 months of 1988. CSX provides no passenger service on the line.

The applicants state that the transaction will enable TBWT to develop new rail business and operate in essentially a new market. It will thereby provide a revenue base permitting improved service to all of its patrons and improving its financial viability. The applicants maintain that the benefits in turn will preserve adequate rail transportation service and promote competition in the area.

The applicants contend the acquisition will not lessen any interstate or intrastate competition or create a monopoly or restrain trade in freight surface transportation. They state that TBWT and CSX do not serve any of the same shippers. The area that is served by the rail line is also served by many motor carriers, and it is well traversed by several U.S. highways, an interstate highway, and numerous state and local roads.

TBWT intends to operate the line to be acquired with its own employees working under TBWT rates of pay, rules, and working conditions. All nine CSX positions affected by the acquisition of the line will be abolished. However, CSX and two of the unions representing its employees have entered into implementing agreements under *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60, and CSX is negotiating with the representatives of the remaining affected employees to enter into *New York Dock* implementing agreements. These conditions are appropriate for employees affected by the acquisition.

The Purchase and Sale Agreement for the sought acquisition, provides that TBWT will pay $2 million in cash for the line's improvements and $26,000 per year for use of the real estate over which the line runs. To finance the transaction and provide working capital, TBWT will issue: (1) 100 shares of common stock with $1 par value; (2) $2 million of privately placed senior debt, secured with the assets that TBWT acquires from CSX, and (3) $700,000 of subordinated unsecured debt placed with its equity owners under promissory notes. TBWT maintains that only the stock issuance is subject to Commission regulation, and that the debt issuances are not because they are not akin to publicly traded stocks or bonds. It contends, however, that if the Commission determines it has jurisdiction over both, then both should be approved as consistent with the public interest and pro-competitive. We ask for comments specifically addressing these jurisdictional and public interest/pro-competitive issues.

The railroad consolidation regulations, with appropriate modifications, are suitable for consideration of this application, even though the proposal involves a motorrail rather than a rail-rail transaction (here, a Class I railroad and a motor carrier that will be a Class III railroad). *See, e.g., CSX Corporation and American Commercial Lines, Inc.—Control—SCNO Acquisition Corp.* (not printed), served May 25, 1988. Under § 1180.4(b)(2) of our regulations, we must determine initially whether a proposed transaction is major, significant, or minor. This transaction has no regional or national significance, and it will neither result in a major market extension nor reduce the present level of competition. We find the proposal is a minor transaction under § 1180.2(c). Since the application complies with our regulations governing minor transactions, with appropriate modifications, we are accepting it for consideration.[1]

TBWT has asked for our approval under section 11301 of the securities issuance, *i.e.*, the 100 shares of common stock. Since those shares are being issued in connection with a transaction under section 11344, the exemption from our regulation at 49 CFR 1175.1(a) does not apply. While a separate application for approval of the stock issuance need not be filed (49 CFR 1175.1(b)), the application does not contain sufficient information to make an affirmative finding under 49 U.S.C. 11301. Accordingly, applicants will need to file additional financial data regarding the stock issuance. For example, we are told that the shares to be issued have a one dollar per share par value, but we are not told the actual price at which the shares will be sold or whether the shares confer any voting power on the shareholders. We also need detailed information about the effect of the proposed stock issuance on the viability of the carrier. *See* 49 U.S.C. 11301(d)(B)-(D).

We will attempt to resolve this issue within the decisional time limit applicable to the minor transaction. Our ability to do so, however, will depend to a great extent on the timing of applicant's supplemental filings and any replies thereto.

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Interstate Commerce Commission in

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Since the transaction involves an acquisition of a rail line by a motor carrier, rather than *vice versa*, the intermodal acquisition criteria of 49 U.S.C. 11344(c) do not apply. *See* Finance Docket No. 31268, *The Pittston Company—Control Exemption—Buffalo Creek and Gauley Railroad Company, Et Al.* (not printed), served April 4, 1989; and Finance Docket No. 30743, *The Pittston Company—Control Exemption—Buffalo Creek and Gauley Railroad Company* (not printed), served February 26, 1986.

Washington, DC. In addition, they may be obtained upon request from applicants' representatives named above.

Any interested persons, including governmental entities, may participate in this proceeding by submitting written comments. Comments must be filed no later than July 10, 1989. The United States Secretary of Transportation and the Attorney General of the United States must file their comments no later than July 25, 1989. Applicants' reply is due August 14, 1989. An original and 10 copies of all pleadings must be filed with the Secretary, Interstate Commerce Commission, Washington DC 20423.

Written comments must be served concurrently by first class mail on the Secretary of Transportation, the Attorney General and applicants' representatives. Written comments must also be served on all parties of record within 10 days of service of the service list by the Commission. We plan to issue the service list by July 25, 1989. Any person who files timely written comments shall be considered a party of record if the person's comments so request. In this event, no petition for leave to intervene need be filed. Consistent with 49 CFR 1180.4(d)(1)(iii) written comments must contain:

(a) The docket number and title of the proceeding;

(b) The name, address, and telephone number of the commenting party and its representative upon whom service shall be made;

(c) The commenting party's position, *i.e.*, whether it supports or opposes the proposed transaction;

(d) A statement of whether the commenting party intends to participate formally in the proceeding or merely comment on the proposal;

(e) If desired, a request for an oral hearing with reasons supporting the request; the request must indicate the disputed material facts that can only be resolved at a hearing; and

(f) A list of all information sought to be discovered from applicant carriers.

Because we have determined that the proposal constitutes a minor transaction, no responsive applications will be permitted. The time limits for processing a minor transaction are set forth at 49 U.S.C. 11345(d).

Discovery may begin immediately. We admonish the parties to resolve all discovery matters expeditiously and amicably.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. This proposal is found to be a minor transaction under 49 CFR 1180.2(c).

2. The application for acquisition in Finance Docket No. 31424 is accepted for consideration. The request for approval of the stock issuance will be handled as provided in the decision.

3. The parties shall comply with all provisions as stated above.

4. This decision is effective on the date of service.

Decided: June 7, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Kathleen M. King,

Acting Secretary.

[FR Doc. 89-14117 Filed 6-14-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; S & K Plating, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on June 2, 1989, a proposed Consent Decree in *United States* v. *S & K Plating, Inc.*, Civil No. CV 85-7867-JGD, was lodged with the United States District Court for the Central District of California. The proposed Consent Decree concerns the prevention of the discharge of pollutants in violation of the Clean Water Act and the limits set forth in the general and categorical pretreatment regulations for the electroplating industry. The proposed Consent Decree requires S & K Plating to achieve and monitor compliance with the Act and the pretreatment regulations and 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, Department of Justice, Washington, DC 20530, and should refer to S & K Plating, D.J. Ref. 90-5-1-1-2503.

The proposed Consent Decree may be examined at the office of the United States Attorney, Central District of California, 312 North Spring Street, Los Angeles, California 90012, and at the Region 9 Office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105. 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. 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, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $1.90 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-14179 Filed 6-14-89; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

National Cooperative Research; Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on May 24, 1989 filed written notifications, on behalf of Bellcore and Bell-Northern Research Ltd., (hereinafter known as "BNR") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties of the joint venture and (2) the nature and objectives of the joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W Mt. Pleasant Avenue, Livingston, New Jersey 07039.

BNR is an Ontario corporation with its principal place of business at 2745 Iris St., Ottawa, Ontario, Canada K2C 3V5.

Bellcore and BNR entered into a written agreement effective April 28, 1989 to collaborate on research to gain further knowledge and understanding of technologies useful in connection with exchange and exchange access telecommunications services in the field of compressed digitally encoded moving video and design of video distribution services.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-14180 Filed 6-14-89; 8:45 am]

BILLING CODE 4410-01-M

LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION

Public Hearing

Background

The Lower Mississippi Delta Development Commission was created by Pub. L. 100-460, signed on October 1, 1988. The purpose of the Commission is to identify and study the economic development, infrastructure, employment, transportation, resource development, education, health care, housing, and recreation needs of the Lower Mississippi Delta region by seeking and encouraging the participation of interested citizens, public officials, groups, agencies, and others in developing a 10-year plan that makes recommendations and establishes priorities to alleviate the needs identified. The Commission will make its report to Congress, the President, and the Governors of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, no later than May 14, 1990.

This notice announces a public hearing of the Commission.

Time: 9:30 a.m.-2:30 p.m., June 29, 1989.

Place: University Center, University of Tennessee at Martin.

Status: Public oral, and written testimony welcomed.

Contact: Ann Sartwell, Telephone (901) 753-1400.

Wilbur F. Hawkins,

Executive Director.

[FR Doc. 89-14272 Filed 6-14-89; 8:45 am]

BILLING CODE 6820-SN-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under Office of Management and Budget Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted by July 17 1989.

ADDRESSES: Send comments to Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3002, Washington, DC 20503; (202-395-7316). In addition, copies of such comments may be sent to Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW Washington, DC 20506; (202-682-5401).

FOR FURTHER INFORMATION CONTACT: Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests a review of an extension of a currently approved collection of information. This entry is issued by the Endowment and contains the following information: (1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Final Descriptive Report Form for State and Regional Arts Agencies.

Frequency of Collection: Annually.

Respondents: State or local governments; Non-profit institutions.

Use: Information is needed and will be used for monitoring of state and regional arts agency activities; coordination of Endowment activities with those of state and regional arts agencies; and reporting on the types of projects, groups, and localities benefiting from state and regional arts agency support.

Estimated Number of Respondents: 63.

Average Burden Hours per Response: 4.

Total Estimated Burden: 252.

Anne C. Doyle,

Administrative Services Division, National Endowment for the Arts.

[FR Doc. 89-14165 Filed 6-14-89; 8:45 am]

BILLING CODE 7537-01-M

Agency Information Collection Under Office of Management and Budget Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before July 17 1989.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW Room 310, Washington, DC 20506 (202-786-0494) and Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW Room 3208, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW Room 310, Washington, DC 20506 (202) 786-0494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Extension

Title: Sample Certification Letter for NEH Federal Matching Funds.

Form Number: Not Applicable.

Frequency of Collection: On Occasion.

Respondents: NEH grantees with Matching grants.

Use: Certification required for release of Federal Matching funds.

Estimated Number of Respondents: 500.

Frequency of Response: On Occasion.

Estimated Hours for Respondents to Provide Information: .5 hours per respondent.

Estimated Total Annual Reporting and Recording Burden: 1,250 hours.

Title: NEH Final Financial Status Report.

Form Number: Not Applicable.

Frequency of Collection: Once.

Respondents: All NEH institutional grantees.

Use: To provide optional format for final report of expenditures.

Estimated Number of Respondents: 1,100.

Frequency of Response: Once.

Estimated Hours for Respondents to Provide Information: .5 hours per respondent.

Estimated Total Annual Reporting and Recording Burden: 2,200 hours.

Susan H. Metts,

Assistant Chairman for Administration.

[FR Doc. 89-14183 Filed 6-14-89; 8:45 am]

BILLING CODE 7536-01-M

Agency Information Collection Under Office of Management and Budget Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before July 17 1989.

ADDRESSES: Send comments to Ms. Susan Daisey, National Endowment for the Humanities, Grants Office, Room 310, 1100 Pennsylvania Avenue, NW Washington, DC 20506 (202-786-0494) and Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW Room 3208, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, National Endowment for the Humanities, Grants Office, Room 310, 1100 Pennsylvania Avenue, NW Washington, DC 20506 (202) 786-0494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Revisions

Title: Centers for Advanced Study category: Application Instructions, interim reports and annual performance reports for centers; fellows' final reports; guidelines for site visitors.

Form Number: Not applicable.

Frequency of Collection: Annual.

Respondents: Independent research libraries and museums, American research centers overseas, and centers for advanced study, and humanities scholars.

Use: Application for funding, program evaluation, and compliance.

Estimated Number of Respondents: 88 per year.

Frequency of Response: Once.

Estimated Hours for Respondents to Provide Information: 9.07 per respondent.

Estimated Total Annual Reporting and Recording Burden: 1,398.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 89-14184 Filed 6-14-89; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 34—Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses or amendments may be submitted at any time. Applications for renewal of licenses are submitted every five years.

5. *Who will be required or asked to report:* Persons holding or applying for a license for the use of radioactive byproduct material for purposes of industrial radiography.

6. *An estimate of the number of responses:* 400.

7 *An estimate of the total number of hours needed to complete the requirement or request:* An average of 0.67 hours per response, plus approximately 123 hours per recordkeeper. The total industry burden is approximately 49,082 hours annually.

8. *An indication of whether Section 3504(h), Pub. L. 96-511 applies:* Not applicable.

9. *Abstract:* 10 CFR Part 34 establishes rules governing the domestic licensing of radioactive byproduct material for use in industrial radiography. The information collected will be evaluated during licensing reviews or inspections to ensure that the performance of industrial radiography will not endanger health or pose a danger to life or property.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW., Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150-0007), Office of Management and Budget, Washington, DC. 20503.

Comments may also be communicated by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 9th day of June 1989.

For the Nuclear Regulatory Commission.

R. Stephen Scott,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 89-14269 Filed 6-14-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co., Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-21, issued to Northeast Nuclear Energy Company (the licensee), for operation of the Millstone Nuclear Power Station, Unit 1, located in New London County, Connecticut.

Identification of Proposed Action

The amendment would consist of an addition to the Technical Specifications (TS) that would authorize the storage capacity of the spent fuel pool at 3229 spent fuel assemblies.

The amendment to the TS is responsive to the licensee's application dated June 24, 1988, as supplemented by

letters dated July 29, August 12, and December 2, 1988, and February 14, March 1, March 22, and April 10, 1989. The NRC staff has prepared an Environmental Assessment of the proposed action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Expansion of the Spent Fuel Pool, Facility Operating License No. DPR-21, Northeast Nuclear Energy Company, Millstone Nuclear Power Station, Unit 1, Docket No. 50-245, dated June 6, 1989.

Summary of Environmental Assessment

The "Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel" (NUREG-0575), Volumes 1-3 (1979), concluded that the environmental impact of interim storage of spent fuel was negligible and the cost of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying spent fuel storage. Because of the differences in design, the FGEIS recommended evaluating spent fuel pool expansions on a case-by-case basis.

For Millstone Unit 1, the expansion of the storage capacity of the spent fuel pool will not create any significant additional radiological effects or non-radiological environmental impacts beyond those assessed in the Commission's Final Environmental Statement (FES) issued in June 1973 related to the operation of Millstone Unit 1, in the safety evaluation and environmental assessment issued June 30, 1977 in support of a license amendment concerning storage capacity, and in the Environmental Evaluation related to conversion to a Full-Term Operating License issued December 17 1984. The 1984 Environmental Evaluation concluded that the FES was still adequate.

The occupational radiation dose for the proposed operation of the expanded spent fuel pool is estimated to be less than one percent of the total annual occupational radiation exposure for this facility.

Finding of No Significant Impact

The staff has reviewed the proposed spent fuel pool expansion to the facility relative to the requirements set forth in 10 CFR Part 51. Based on this assessment, the staff concludes that there are no significant radiological or non-radiological impacts associated with the proposed action and that the issuance of the proposed amendment to the license will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, no environmental impact statement needs to be prepared for this action.

For further details with respect to this action, see (1) the application for amendment dated June 24, 1988, as supplement by letters dated July 29, August 12 and December 2, 1988, and February 14, March 1, March 22 and April 10, 1989; (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG-0575); (3) the FES for Millstone Unit 1 dated June 1973; (4) Amendment No. 39 to the Millstone Unit 1 license dated June 30, 1977· and (5) the Environmental Assessment dated June 6, 1989.

These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555 and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Dated at Rockville, Maryland, this 7th day of June, 1989.

For the Nuclear Regulatory Commission.

John F Stolz,

Director, Project Directorate I-4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-14266 Filed 6-14-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-498 and 50-499]

Houston Lighting & Power Co., Consideration of Issuance of Amendments To Facility Operating Licenses and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-76 and NPF-80, issued to Houston Lighting & Power Company (the licensee), for operation of the South Texas Project, Units 1 and 2 (STP-1 and STP-2) located in Matagorda County, Texas.

The amendments would permit the licensee to retain the minimum reactor coolant system (RCS) flow rate of 395,000 gpm in the plants' technical specifications. After the licensee identified the presence of a thermal-hydraulic flow instability in STP-1 it followed with an immediate action to administratively increase the minimum RCS flow to 400,000 gpm to offset any loss of generic Departure from Nucleate Boiling (DNB) margin. Subsequent reevaluation of the condition concluded that operating at 395,000 gpm would result in only a slight increase in peak cladding temperature (10°F) for the limiting accident.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By July 17 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 1 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceedings, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall

be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram identification Number 3737 and the following message addressed to Frederick J. Hebdon: petitioner's name and telephone number; date Petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Newman & Holtzinger, P.C., 1615 L Street, NW Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petitioner and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated April 18, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW Washington, DC and at the Wharton Junior College Library, Wharton, Texas 77488.

Dated at Rockville, Maryland this 8th day of June 1989.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate—IV, Division of Reactor Projects—III, IV V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-14265 Filed 6-14-89; 8:45 am]

BILLING CODE 7590-01-M

James River Corp., Order Modifying License

[General License 10 CFR 31.5, Docket No. 99990001 EA 89-62]

I

The James River Corporation (the licensee), Tredegar Street, Richmond, Virginia 23219 holds a Nuclear Regulatory Commission ("NRC" or "Commission") general license issued pursuant to 10 CFR Part 31.5. This general license authorizes possession and use of byproduct material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness and structural integrity of materials in an industrial environment. Under this general license, the license operates fifty-one facilities throughout the United States where generally-licensed gauges are used.

II

On January 30, 1989, the NRC conducted an inspection at the James River Graphics Group, South Hadley, Massachusetts, a division of the licensee's corporation, to review the circumstances associated with the loss of a static eliminator bar (static bar) containing 22.5 millicuries of americium-241. The loss occurred on or after October 4, 1988. The licensee discovered and reported the loss to the NRC on October 11, 1988. The loss occurred when contractor personnel, who were dismantling a paper-coating machine for disposal, failed to remove one of three static bars mounted on the machine. As a result, a static bar containing the radioacitve material was inadevertently transferred with the coating machine to an unlicensed waste disposal firm and was subsequently buried at an unlicensed commercial landfill. This improper disposal constitutes a violation of NRC requirements as described in the Notice of Violation and Proposed Imposition of Civil Penalty issued on this date.

In a letter dated October 26, 1988, the Safety Manager of the South Hadley facility made certain commitments regarding corrective actions to prevent future loss of licensed material from that facility. At the time of the January 30, 1989 inspection, several of these commitments had not been fully implemented. Specifically, not all radioactive devices were properly labelled to indicate they contained radioactive material; a new "altered equipment and process safety checklist" had not been established; and the monthly safety audit program did not contain the necessary elements designed to detect and correct improper control and disposition of radioactive material. Furthermore, during a plant tour at the time of the inspection, the Safety Manager was unaware of the status of an Ohmart gauge which was marked as containing radioactive material, but which was not on the licensee's current inventory. It was later determined that the radioactive source had been removed from the Ohmart gauge and transferred to an authorized recipient in 1981.

III

NRC has serious concerns about the most recent improper disposal of radioactive material from the South Hadley, Massachusetts facility because this is the fourth incident since 1979 in which facilities owned by the licensee have improperly disposed of radioactive material.

On May 27 1986, the NRC Region III office conducted an inspection at the licensee's facility in Parchment, Michigan to review the circumstances surrounding the loss of an industrial gauge containing a 250 millicurie krypton-85 source. The inspection disclosed that the gauge was removed from service in July 1984, and was presumed to have been placed in storage at the Parchment facility. However, when the licensee issued a purchase order to an authorized licensee in February 1986 in an effort to dispose of the gauge, the gauge was missing. Between July 1984, and May 27 1986, the licensee had no bona fide inventory record of the location of the gauge, since audit records reflecting that the gauge was in storage were based on oral statements from unidentified licensee representatives and not on visual inspection. The licensee has never located that source and presumes it has been improperly transferred and/or lost.

On October 15, 1984, NRC Region I conducted an inspection at the

licensee's facility in Easton, Pennsylvania to review the circumstances surrounding the loss of an industrial gauge containing 55 millicuries of strontium-90. The inspection disclosed that sometime after April 27 1984, the gauge was inadvertently disposed of. Apparently, it was buried in an unlicensed sanitary landfill after the licensee failed to return the gauge to its proper storage located following the performance of a leak test. The licensee did not discover the gauge was missing until August 1984.

Previously, on August 15, 1979, the licensee notified the NRC that a static eliminator bar containing radioactive material was lost from the South Hadley, Massachusetts facility. All efforts to locate the static bar were unsuccessful and it was never recovered.

Civil penalties of $250 and $500, respectively, were issued for the losses of licensed material in 1984 and 1986. In the licensee's September 5, 1986 response to the civil penalty issued for the 1986 loss of material from the Parchment, Michigan facility, the licensee committed itself to develop a corporate radiation protection program to prevent the recurrence of loss of radioacitve material from its various facilities. However, the licensee's actions were not effective in preventing the loss of licensed material from the South Hadley, Massachusetts facility in October, 1988.

IV

The licensee's continued failure to maintain sufficient control of radioactive materials, resulting in the loss of generally-licensed material at the various licensee facilities, raises significant questions regarding the adequacy of oversight of these gauges by corporate management. Furthermore, although commitments were made to improve control of radioactive materials, the commitments described in the licensee's October 26, 1988, and September 5, 1986 letters in response to the losses at South Hadley and Parchment were not fully implemented. Of particular concern to the NRC is the licensee's failure, following its September 5, 1986 commitment, to develop a corporate radiation protection program capable of preventing the October 1988 loss of licensed material. Accordingly, without additional requirements, there is a substantial question as to whether these materials will be adequately controlled. Therefore, I have determined that the public health and safety require that the licensee's general license (10 CFR 31.5) be modified by supplementing the license.

V

Accordingly, pursuant to sections 81, 161b, 161i and 161o of the Atomic Energy Act of 1954, as amended, and the Commission regulations in 10 CFR Part 2.204 and Part 31, *It is hereby ordered That:*

A. Upon approval of the Regional Administrator as specified in V.B. below, the licensee, supplemented as necessary by a qualified consultant, shall conduct an on-site audit and prepare an audit report for each facility owned by the licensee where NRC-licensed material is used or stored. A written report of each audit shall:

1. Cover the previous 24 months of operation at each facility.

2. Specifically address each requirement in 10 CFR 31.5(c)(1) through (c)(10), as well as each commitment made by the licensee in prior letters to NRC describing corrective action, including letters dated March 25, 1985 (Easton, PA facility), September 5, 1986 (Parchment, MI facility), and October 26, 1988 (South Hadley, MA facility).

3. Describe (a) the means or method that the facility is using to comply with each requirement in 10 CFR 31.5 and commitment referenced in V.A.2. above; (b) any deviation from, or violation of, each requirement/commitment; (c) any other weaknesses identified during the audit; and (d) recommendations to address past violations and weaknesses.

4. Be submitted to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

B. Within 60 days of the effective date of this Order, the licensee shall submit to the Regional Administrator, NRC Region I, for approval, (1) an overall plan to conduct the required audits and (2) the qualifications, including the names and resumes, of the employees and any outside consultants who will perform the audits.

C. Within 120 days of the approval of the Regional Administrator as specified in V.B. above, the licensee shall assure that all audits are completed and that all audit reports have been forwarded to the Regional Administrator as specified above.

D. Within 30 days of the submission of all audit reports to the Regional Administrator as specified in V.C. above, the licensee shall have developed and shall submit to the Regional Administrator, NRC Region I, for approval, a corporate plan to ensure that the licensee's facilities meet all requirements of 10 CFR 31.5 as well as commitments made to NRC in letters describing corrective action, and to ensure that NRC-licensed materials are adequately controlled and disposed of only in an authorized manner. The plan shall be developed and managed at the corporate level and shall identify, by position, an individual at each facility with the appropriate level of authority who will implement the plan. The plan shall include, but not be limited to:

1. Establishment of a system to (a) identify the locations of nuclear gauges and the number of guages present, (b) distinguish these guages from other plant equipment wherever they are used or stored, and (c) provide the name and phone number(s) of a designated, knowledgeable employee (such as the Radiation Protection Officer) who will serve as a contact. The system of identification should be sufficient to alert workers to the presence of devices containing radioactive material and to prevent the inadvertent handling, servicing, dismantling, removal, or disposal of such devices.

2. Requirement for the physical presence and direct supervision of a designated, knowledgeable employee (such as the Radiation Protection Officer) whenever activities specified in 10 CFR 31.5(c)(3) are carried out.

3. Establishment of a systematic corporate-based inventory, compliance audit, and reporting system with methods and frequency appropriate for the scope of the licensee's nuclear materials program and history of past problems involving these materials.

4. Establishment of a plant at each facility for securing nuclear guages that are not installed in equipment and restricting access to such guages to a designated, knowledgeable employee (such as the Radiation Protection Officer).

5. Establishment of a specific milestone schedule for initial implementation of the various aspects of the plan.

D. Within 7 days of the Regional Administrator's approval of the plan, the licensee shall implement the plan in accordance with the established milestone schedule.

The Regional Administrator, NRC Region I, may, in writing, relax or rescind any of these provisions for good cause shown.

VI

The licensee or any other person whose interest is adversely affected by this Order may request a hearing within twenty days of its issuance. Any request for a hearing shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Assistant

General Counsel for Hearings and Enforcement, Office of the General Counsel, at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). Upon failure of the licensee or any person adversely affected by this Order to request a hearing within the specified time, this Order shall be final without further proceedings.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

Dated at Rockville, Maryland this 2nd day of June 1989

[FR Doc. 89-14268 Filed 6-14-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443-OL, 50-444-OL (Offsite Emergency Planning Issues)]

Public Service Co. of New Hampshire et al. (Seabrook Station, Units 1 and 2) Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of June 7 1989, oral argument on the appeals of the Seacoast Anti-Pollution League and Attorney General of Massachusetts from the Licensing Board's March 8, 1989, memorandum and order will be heard at *10:00 a.m., Wednesday, July 12, 1989, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.*

For The Appeal Board.

Barbara A. Tompkins,

Secretary to the Appeal Board.

Dated: June 7 1989.

[FR Doc. 89-14156 Filed 6-14-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-05980 et al., ASLBP No. 89-590-01-OM]

Safety Light Corp. et al; Byproduct Material License No. 37-00030-02 et al., Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

Safety Light Corporation, et al., Byproduct Material License Nos. 37-00030-02, -08, -07E, -09G, -10G (Order Modifying Licenses), E. A. 89-29.

This Board is being designated pursuant to Licensee's request for a hearing regarding an order issued by the Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support, dated March 16, 1989, entitled "Order Modifying Licenses and Demand for Information" in the matter of Safety Light Corporation, *et al.*, United States Radium Corporation, USR Industries, Inc., USR Lighting, Inc., USR Chemical, Inc., USR Metals, Inc., USR Natural Resources, Inc., Lime Ridge Industries, Inc., Metreal, Inc., Pinnacle Petroleum, Inc. and all other successor corporations to either USR Industries or U.S. Radium Corp. (54 FR 12035-38, March 23, 1989)

The Board is comprised of the following administrative judges:

Helen F Hoyt, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Oscar H. Paris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 2nd day of June 1989.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 89-14157 Filed 6-14-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-397]

Washington Public Power Supply System; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 68 to Facility Operating License No. NPF-21, issued to Washington Public Power Supply System (the licensee), which revised the Technical Specifications for operation of the Nuclear Project No. 2, located in Benton County, Washington.

The amendment was effective as of the date of issuance.

The amendment revises Technical Specification section 4.8.2.1, "D.C. Sources Surveillance Requirements. Specifically, the discharge amperage profiles listed under subsection d are changed and subsections e and f are revised to reflect the more conservative aging factor used for sizing the division 1 250 vdc battery.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on May 18, 1988 (53 FR 17810). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined that an environmental impact statement will not be prepared and that issuance of this amendment will have no significant adverse effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated March 18, 1988, as supplemented April 12, 1989, (2) Amendment No. 68 to License No. NPF-21, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW Washington, DC 20555, and at the Richland City Library, Swift and Northgate Streets, Richland, Washington 99352. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV V and Special Projects.

Dated at Rockville, Maryland this 6th day of June, 1989.

For the Nuclear Regulatory Commission.

Robert B. Samworth,

Senior Project Manager, Project Directorate V, Division of Reactor Projects III, IV V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-14267 Filed 6-14-89; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1989, shall be at the rate of 26 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning July 1, 1989, 31.1 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 68.9 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

Dated: June 5, 1989.

[FR Doc. 89-14181 Filed 6-14-89; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-26907; File No. SR-NASD-89-15]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc; Order Approving Proposed Rule Change Relating to Registration of Principals and Representatives

The National Association of Securities Dealers, Inc. ("NASD") submitted on March 23, 1989 copies of a proposed rule change, and an amendment thereto on April 25, 1989, pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend Schedule C of the NASD By-Laws. The proposal would require members to submit applications for and maintain the registrations of only such persons who intend to engage or are engaged in the investment banking or securities business for the members.

Notice of the proposal together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 26776, May 1, 1989) and by publication in the **Federal Register** (54 FR 19993, May 9, 1989). No comments were received regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: June 8, 1989.

[FR Doc. 89-14201 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-26908; File No. SR-NYSE-89-5]

Self-Regulatory Organizations; New York Stock Exchange, Inc., Notice of Filing of Proposed Rule Change Relating to Basket Trading

Pursuant to Section 19(b)(1), 15 U.S.C. 78s(b)(1), of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, 17 CFR 240.19b-4, notice is hereby given that on June 2, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of theTerms of Substance of the Proposed Rule Change

The proposed rule change sets forth a framework for trading "Exchange Stock Portfolios" ("ESPs") (standardized baskets of stocks) on the Floor of the Exchange.[1] The proposed rule change consists of changes to existing Exchange rules, the adoption of a new "800 series" of rules that apply solely to ESP trading, the adoption of guidelines to implement certain provisions of the proposed rules, and an ESP fee schedule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose*—The advent of trading in index futures and options in the early 1980s led to the development of stock trading strategies involving the acquisition and liquidation of offsetting positions in the underlying stocks. As those strategies matured, and as institutional investors became increasingly interested in holding portfolios that tracked the market as a whole, program trading evolved. Program trading can be described as the simultaneous entry, but separate execution, of orders in stocks in proportion to their relative representation in major indices.

In 1985, the Exchange addressed the cumbersome individual order entry of multiple orders in program trading by offering a service designed to simplify the process. This service, known as list processing, allows multiple orders to be assembled and transmitted to the Exchange's SuperDot system through a single entry. List processing enhanced multiple order entry, but did not address the separate execution of multiple orders.

[1] "Exchange Stock Portfolio" and "ESP" are service marks of the New York Stock Exchange, Inc.

Subsequently, suggestions for a product that would enable not only single entry, but also single execution, of multiple stocks began to surface. Such a product would allow multiple stocks, or baskets, to be bought and sold as a single unit.

The growing impact of the "Triple Witch" effect, which added a regulatory interest to the business interest in developing such a product, made the development of such a product a matter of industry-wide concern. By 1986, industry studies and the Commission were suggesting that the cash settlement feature of index options and futures be replaced with delivery at expiration of some, or all, of the underlying component stocks.

Studies of the October 1987 market break increased the calls for a single-execution basket market. The report issued by the Commission staff echoed the substance, if not the form, of a recommendation made in a December 1987 report commissioned by the Exchange and authored by Nicholas deB. Katzenbach, which suggested that the Exchange give serious consideration to trading one or two broad stock indices on the floor of the Exchange.

In 1988, the Exchange began to study intensively how it might respond to these recommendations. The Exchange recognized that a product of the type suggested could not succeed unless it met the needs of basket investors and gained the support of the firms whose capital would be key to trading such a product.

The Exchange thus conducted an interactive process with pension fund managers, investment managers, member firms and others to develop a product that would meet the needs of investors and address the concerns of regulators and other commentators. The outcome of this process is the ESP market.

The ESP market will provide a mechanism for the trading of standardized baskets of stocks at a single, aggregate price in a single execution on the Exchange's stock Floor. An ESP trade will result in a transfer to the buyer of ownership of each of the stocks in the basket so traded. When the transaction is completed, the buyer will be entitled to all rights attending ownership of the basket stocks (including the rights to vote and receive dividends), and will be free to sell or hold each stock separately.

ESP Product Description

Initially, ESP trading will be available for executions of a standardized basket of stocks based on the "S&P 500 Portfolio Index" [2] At the commencement of ESP trading, each 500-stock ESP will have a value of approximately $5 million.

The S&P 500 Portfolio Index is nearly identical to the S&P 500 Index,[3] containing the same stocks and with virtually the same capitalization weighting. It differs in two respects to accommodate standardized basket trading.

First, the S&P 500 Portfolio Index is designed so that fractional share interests that would result from a basket derived directly from the S&P 500 Index are rounded up or down to the nearest whole share. Because of this factor, a basket based on the S&P 500 Portfolio Index will not contain fractional shares.

Second, in order to decrease the occasions when rebalancing is necessary to liquidate a basket position, the Exchange will not adjust the S&P 500 Portfolio Index every time S&P adjusts the S&P 500 Index.

At a minimum, the Exchange will adjust the S&P 500 Portfolio Index each calendar quarter. The Exchange will determine when additional adjustments will be made to the index in response to adjustments made to the S&P 500 Index. Generally, such additional adjustments will be made whenever an index stock is substituted or some other corporate event occurs that significantly affects an index stock's relative capitalization in the S&P 500 Index, such as the issuance of stock dividends or special cash distributions. Whenever an adjustment is made to the S&P 500 Portfolio Index, all intervening changes to the S&P 500 Index will be incorporated as well.[4]

Even with these two differences, the S&P 500 Portfolio Index closely tracks the S&P 500 Index. During the latter half of 1988, the "tracking" error between the closing values of the two indices never exceeded .02 index points.

"S&P 500 Portfolio Index" is a trademark of the Standard & Poor's Corporation and has been licensed for use by the New York Stock Exchange, Inc. The S&P 500 Portfolio Index la based upon the S&P 500 Index pursuant to a license from the Standard & Poor's Corporation.

"S&F 500 Index" is a trademark of the Standard & Poor's Corporation and has been licensed for use by the New York Stock Exchange, Inc.

Index information will be readily available to investors. The Exchange will use S&P's Index Alert System to disseminate current information about the composition and capitalization weighting of the S&P 500 Portfolio Index. In addition, the Exchange will maintain in files available to the public current data on the composition of the component stock and their relative representation in the index and the method of calculating the index. The Exchange will also make available computer disks containing all current data on the state of the index as well as facility for disseminating current data on the component stocks through commercial electronic mail.

Market Structure

The Exchange will employ a market structure consisting of "Competitive Basket Market-Makers, Exchange specialists, brokers and an ESP "Basket Book Broker. Competitive Basket Market-Makers, who can be both Exchange members and member organizations, must have $10 million in capital. The Competitive Basket Market-Makers will be primarily responsible to ensure a deep and liquid ESP market, with their primary obligation being to maintain continuous two-sided quotations. Competitive Basket Market-Makers can perform their market-making responsibilities either from on the Floor or from their upstairs trading room.

Specialists in the component stocks will contribute to the liquidity of the ESP market. Whenever all Exchange-listed component stocks are open for trading, there will be a "Tier 1" market for one ESP calculated by summing the current quotations for each of the stocks according to the weighted value of each stock in the basket. The Basket Book Broker, whose main functions will be to maintain the limit order book (which will be open to all on the Floor and displayed on the terminals of the Competitive Basket Market-Makers upstairs) and to serve as auctioneer, will also have the limited dealer function of providing quotations for the "minibasket" of non-Exchange listed stocks. In addition, each component stock specialist and the Basket Book Broker will be required to provide a second "Tier 2" quotation for up to three ESPs.

Floor brokers will represent ESP orders in the same way they handle orders for individual stocks today.

The ESP trading rules provide for Floor trading integrated with upstairs market-makers through a terminal to an electronic system, based on the open limit order book. The next section discusses these rules one-by-one.

Summarv of ESP Rules

The Exchange has taken the following approach to enabling its Rules to accommodate basket trading

(a) It has amended several existing Rules to accommodate issues that the introduction of basket trading raises: Rule 36 (Communications between Exchange and Members' Offices), Rule 104 (Dealings by Specialists), Rule 111 (Competitive Traders) and Rule 431 (Margin Requirements).

(b) It has proposed a new "800 series" of Rules ("Basket Rules") that apply solely to ESP trading.

(c) It has incorporated into the 800 series many of the Exchange's "Dealings and Settlements" Rules (Rules 45 through 299C).

(d) It has excluded from application to ESP trading other of the Exchange's existing Rules. (See paragraph (a) of Rule 800 (Basket Trading: Applicability and Definitions).)

(e) It has imposed several regulations that govern "inter-market" issues arising from the interplay between the stock and ESP markets. (See paragraph (c) of Rule 800).

Rule-By-Rule Analysis

The Exchange's complete rule-by-rule analysis is available for inspection and copying at the places specified in Item IV below. Some of the more significant rules are discussed immediately below.

Rule 36 (Communications between Exchange and Members' Offices)

Rule 36 is amended to enable members to communicate with non-members off the Floor for the purpose of hedging ESPs with futures or options or laying off individual Amex and OTC stocks acquired in ESP trades.

Rule 104 (Dealings by Specialists)

Rule 104 is amended to enable specialists to participate in basket trading. Each specialist must support the ESP market by maintaining "Tier 1" and "Tier 2" quotations in each of his specialty basket stocks.

The ESP system will automatically establish the Tier 1 bid and offer for a basket's component stock by "catching" every 15 seconds the best published bid and offer in his market. The specialist must establish his Tier 2 bid and offer for the component stock at a level equal or inferior to the Tier 1 bid and offer. Initially, the Exchange anticipates establishing guidelines for Tier 2 quotations that take into account the normal depth of the stock's market. The ESP system will create aggregate Tier 1 and Tier 2 quotes represented in the ESP market.

When the ESP system sends an execution notice to the component stock specialist indicating the execution of a Tier 1 or Tier 2 basket trade, the specialist must assign the execution at the execution price to interest on his book or in the trading crowd in accordance with existing stock rules of priority and precedence, as well as report the price to the consolidated tape. Because the ESP system will "catch" his Tier 1 and Tier 2 quotes only once every 15 seconds, and because of the human and system time involved in entering an ESP trade and disseminating the execution notices, the Tier 1 or Tier 2 execution price indicated in an execution notice may be superior or inferior to the prevailing market quotation at the time the specialist receives the execution notice. Nevertheless, the execution price indicated in the execution notice always applies. If the execution price indicated in the notice is inferior to the prevailing market price, the specialist must assign the execution to the bid or offer then having priority at the price indicated in the notice. If the execution price indicated in the notice is superior, the specialist must take or supply the necessary shares. The specialist is also required to take or supply the necessary shares when the size of the interest on the book or in the trading crowd at or better than the execution price is insufficient or, in a non-firm market, when it is impractical for him to assign the execution to the book or trading crowd.

In the case of a notice for a Tier 1 execution, the specialist must assign, take or supply the number of shares of his specialty stock that one basket contains; in the case of a notice for a Tier 2 execution, the specialist must assign, take or supply the number of shares of his specialty stock that up to three baskets contain. The rule stipulates a 30-second suspension of his Tier 1 "bid" obligation after each ESP execution against the Tier 1 bid, and an independent 30-second suspension of his Tier 1 "offer" obligation after each ESP execution against the Tier 1 offer. Similar but independent 30-second suspensions of his Tier 2 bid and offer obligations occur after any ESP execution against a Tier 2 bid or offer.

Rule 104 also is amended to cross-reference Rule 800, which deals with interplay between this rule and the ESP rules.

Rule 111 (Competitive Traders)

Rule 111 is amended to add a new exception to that Rule's prohibition against proprietary stock trading by persons other than a Competitive Trader: a Competitive Basket Market-Maker may initiate proprietary trades to liquidate a position in a component stock that the Competitive Basket Market-Maker has established through basket transactions during the same trading session. This enhances the Competitive Basket Market-Maker's ability to liquidate unwanted basket stocks in individual stock transactions, whether acquired to accommodate customers, to meet his market-making obligations or otherwise.

Rule 431 (Margin Requirements)

An amendment to Rule 431 makes clear that a member organization may clear and carry a Competitive Basket Market-Maker's ESP trades upon such margin as the member organization and market-maker may agree so long as the resulting margin adequately covers the risk attendant to the Market Functions Account in which the ESPs are carried.

Rule 800 (Basket Trading: Applicability and Definitions)

Rule 800 performs five primary functions:

(1) Rule 800 excludes certain existing stock Rules from application in the ESP context.

(2) Paragraph (a) of Rule 800 substitutes terms to cause the incorporated stock Rules to properly apply in the ESP context.

(3) Any Exchange Rule that Rule 800 does not specifically exclude from application in the ESP context *does* apply to basket trading and to the members and member organizations that trade baskets.

(4) Paragraph (b) of Rule 800 defines several terms for use throughout the Basket Rules.

(5) Paragraph (c) of Rule 800 establishes six rules that deal with the impact of activity in baskets on activity in component stocks, and *vice versa:*

a. A member who holds or has knowledge of a customer's unexecuted order for one or more of a basket's component stocks may still initiate a basket transaction, despite anything to the contrary in Rule 92 (Limitations on Members' Trading Because of Customers' Orders).

b. A specialist may originate a basket order for a discretionary account even if the basket contains his specialty stock, despite anything to the contrary in Supplementary Material .20 of Rule 95 (Discretionary Transactions).

c. A member who holds or has granted an option on a basket's component stock may still initiate proprietary basket transactions despite anything to the contrary in Rule 96 (Limitation on Members' Trading Because of Options).

d. Rule 97 (Limitation on Members' Trading Because of Block Positioning) imposes tick tests limiting the ability of a member to trade if he has acquired a long stock position as a result of a "block transaction" Those tick tests do not apply if the "block transaction" derives from a member's basket transactions.

e. A stock specialist may initiate basket transactions even if the basket contains a specialty stock, despite

anything to the contrary in Rule 104 (Dealings by Specialists).

f. A specialist, Registered Competitive Market-Maker or Competitive Trader must include in any calculation of his aggregate stock position any stock that he has acquired by means of one or more basket transactions for the purposes of the stock trading limitations that Rules 104, 107 (Registered Competitive Market-Makers) and 112 (Competitive Traders) impose.

Rule 801 (Baskets To Be Traded)

Rule 801 does three things: It limits basket trading to baskets that the Exchange has approved; it requires that a basket's component stocks have been admitted to dealings for ESP purposes on an "issued" "when issued" or "when distributed" basis; and it gives the Exchange discretion to change the array of component stocks comprising a basket.

Rule 802 (Basket Units of Trading; Basket Bids and Offers)

Rule 802 specifies that one basket is the unit of ESP trading and states that bids and offers must be expressed in terms of index points and decimals. It also sets one-hundredth of one index point as the minimum variation between bids and offers, and affords the Exchange the flexibility to alter the manner of expressing basket bids and offers by substituting the use of fractions for decimals. The Rule also confirms that basket bids and offers made and accepted are binding, and establishes that only market and limit orders can be entered on the ESP display unit.

Supplmentary Material .10 to Rule 802 specifies that certain orders do not apply to ESPs.

Supplementary Material .20 governs "Index-on-Close" basket orders. "Index-on-Close" orders, which may only be entered as matches, are executable at the close at the closing value of the index on which the basket is based. Members must enter Index-on-Close orders prior to the close.

Supplementary Material .30 and .40 introduce the concept of "split" orders, enabling a member to participate on the same side of the market with his customer as an accommodation to his customer's need for a customized basket. The member may agree to take or supply either (a) all shares of enumerated component stocks of a basket (a "vertical split") or (b) the same percentage of each component stock's basket shares, rounded to the nearest whole share (a "horizontal split"). The vertical split order allows a member to accommodate a customer who determines that certain component stocks are not suitable for his portfolio. The horizontal split allows a member to accommodate a customer who wants all of the stocks in a basket, but not in a basket quantity.

Supplementary Material .40 limits to 100 the number of stocks that a member or member organization can take or supply when vertically splitting an order for a customer, whether as part of an agency cross pursuant to paragraph (d) of Rule 805 (Price Priority of Basket Bids and Offers) or as a facilitation pursuant to Rule 806 (Taking or Supplying Baskets Named in an Order).

Rule 805 (Priority of Basket Bids and Offers)

Rule 805 sets forth the rules of priority applicable to ESP bids and offers. The highest bid and lowest offer have priority in all cases. At the same price, Tier 1 and Tier 2 bids and offers have priority over all other bids and offers, so as to enhance the opportunity for public customers in the component stock markets to participate. Next, priority at a price is determined by the time of entry on the ESP display unit. Finally, a bid or offer from the trading crowd has priority over other bids or offers from the trading crowd at its price (though not over bids or offers on the display unit at its price) based on when the bid or offer was made. Where the sequence of trading crowd bids and offers cannot be determined, or where bids and offers in the trading crowd are made simultaneously, priority will be shared on a pro rata basis. The Rule also makes clear that, unlike stock trading, a basket sale does not remove all bids and offers. Paragraph (d) of the Rule allows a member to cross two agency orders without exposing either side, but only at a price that is better than the ESP display unit's best bid and best offer on the basket.

Rule 806 (Taking or Supplying Baskets Named in Order)

Rule 806 specifies that a Competitive Basket Market-Maker may only facilitate a customer's order at a price that is better than the best bid or offer on the ESP display unit, and only after announcing the facilitation price to other members in the trading crowd.

Another member may "break up" a Competitive Basket Market-Maker's facilitation trade by taking or supplying all of the baskets that the customer seeks at a price that is better for the customer than the facilitator's price. However, the rule provides the facilitating Competitive Basket Market-Maker with a "safe harbor": a member may not "break up" the facilitation if the Proposed facilitation price is one "minimum variation" better than the prevailing quote on the customer's side of the market.

Rule 807 (Competitive Basket Market-Makers)

Rule 807 governs Competitive Basket Market-Makers. It is divided into two parts. Part A governs the registration, administration and financing of Competitive Basket Market-Makers. Part B governs their dealings.

Part A

Part A of Rule 807 allows members and member organizations to register as Competitive Basket Market-Makers by satisfying Exchange-prescribed registration requirements. Competitive Basket Market-Makers must maintain minimum capital equal to $10 million of net liquid assets over and above other federal and Exchange capital requirements. A Competitive Basket Market-Maker's capital calculation must not include the capital required to carry or finance accounts other than the market-maker account.

Part B

The following obligations govern the activities of the Competitive Basket Market-Maker:

(a) A Competitive Basket Market-Maker may make a proprietary bid or offer only in a manner consistent with the maintenance of a fair and orderly market.

(b) A Competitive Basket Market-Maker must engage in proprietary dealings when there exists a lack of depth or a temporary disparity between ESP supply and demand.

(c) All proprietary transactions of a Competitive Basket Market-Maker must be effected in a reasonable and orderly manner in relation to the condition of the general market and the ESP market.

(d) A Competitive Basket Market-Maker must bid and offer on a continuous basis in accordance with Exchange-prescribed parameters, initially expected to be the greater of two index points and the spread between the aggregate bid and offer of the component stocks.

Rule 808 (Basket Book Brokers)

Under Rule 808, the Basket Book Broker presides over all ESP executions, executes orders entrusted to him, maintains the ESP display unit, arranges the opening of the ESP market, presides over the ESP call market, maintains a market in minibaskets, reports ESP trades to market data vendors and otherwise generally supervises the ESP

market. Either a member or a member organization may register as a Basket Book Broker. However, only members who have qualified to act as a Basket Book Broker may perform Basket Book Broker functions. Each Basket Book Broker must arrange to have a member qualified to act as a Basket Book Broker in attendance during all business hours.

A member or member organization registered or acting as or on behalf of a Competitive Basket Market-Maker may neither register nor act as a Basket Book Broker unless, in the case of a member organization, it performs its Competitive Basket Market-Maker functions in a segregated, Rule 98-type unit.

Under unusual circumstances, a Floor Governor may designate a member who has not registered or qualified as a Basket Book Broker to act in that capacity temporarily. The temporary Basket Book Broker is expected to assume the Basket Book Broker obligations and responsibilities of the member for whom he is substituting. The rule also provides for relief Basket Book Brokers.

In addition, Rule 808 requires a Basket Book Broker to promptly effect immediately-executable limit orders entrusted to him against the prevailing contra-side interest and to promptly place any other limit orders on the basket display unit.

Supplementary Material .20 requires the Basket Book Broker, as market-maker in the minibasket made up of a basket's non-NYSE listed stocks, to contribute Tier 1 and Tier 2 minibasket quotations for inclusion in the aggregate Tier 1 and Tier 2 quotations. The minibasket quotations must be reasonably related to the market in the individual minibasket stocks in accordance with Exchange-prescribed parameters. The Exchange's guidelines set the Tier 1 parameters in relation to the weighted sums of the bids and offers for the minibasket's component stocks, and the Tier 2 parameters in relation to Tier 1.

Rule 809 (Proprietary Basket Trades)

Rule 809 prohibits any member from initiating proprietary basket trades on the Floor unless the member is a Competitive Basket Market-Maker or is offsetting a basket transaction made in error. However, it does permit a member to accept proprietary orders initiated off the Floor, subject to the limitations that Rule 92 (Limitations on Members' Trading because of Customers' orders) imposes on the proprietary trades of members holding customers' orders.

Rule 810 (Basket Orders Initiated Off the Floor)

Rule 810 generally requires that all proprietary basket orders of a member or member organization not registered as a Competitive Basket Market-Maker be sent to the Floor through a clearing firm's order room or similar facilities. The Rule also defines "On-Floor" for the purpose of ESP trading.

Rule 815 (Basket Openings and Reopenings)

Rule 815 describes the procedures by which the Basket Book Broker will open or reopen trading in the ESP market. The rule incorporates opening procedures applicable to stock trading as set forth in Rule 115A (Orders at Opening or in Unusual Situations). In addition, it requires that, if matching buy and sell market orders create an imbalance, the Basket Book Broker must execute the opening at a single opening price (i e., the lowest price (buy imbalance) or highest price (sell imbalance) at which limit orders on the ESP display unit will satisfy the imbalance), unless the imbalance is significant enough to warrant entry into a call market.

Rule 816 (Basket Call Markets; Basket Trading Halts)

Paragraph (a) of Rule 816 describes how call markets are initiated and conducted.

Paragraph (b) of Rule 816 confirms that ESP trading will halt when market activity triggers the "circuit breakers" of Rule 80B (Trading Halts Due to Extraordinary Market Volatility). That is ESP trading, like single-stock trading, will halt for one and two hour intervals when the Dow Jones Industrial Average drops 250 and 400 points, respectively.

In addition, the Exchange's Senior Officers and Floor Directors can halt ESP trading when the condition of the market so warrants.

Fees

The ESP fee schedule proposes fees intended to recover the Exchange's costs in developing and operating the ESP market. The initial fees are $350 per unit per side ($200 per unit per side for crosses) and a charge of $12,000 per year in advance for a Competitive Basket Market-Maker's terminal.

(b) *Statutory Basis*—The basis under the Securities Exchange Act of 1934 ("1934 Act") for the ESP rules and guidelines is the requirement under section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The basis under the 1934 Act for the ESP fees is Section 6(b)(4), which permits the rules of an exchange to provide for the equitable allocation of reasonable dues, fees and other charges among the members, issuers and other persons using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the 1934 Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the

Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before July 17 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

June 8, 1989.

[FR Doc. 89-14198 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-26902; File No. SR-PSE-89-13]

Self-Regulatory Organizations; Notice of Filing Proposed Rule Change by Pacific Stock Exchange, Inc., Relating to Verification of Compared Trades and Reconciliation of Uncompared Trades

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 22, 1989, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Item 1. Text of the Proposed Rule Change

The PSE proposes to amend what is currently Options Floor Procedure Advice G-3 and incorporate it into Rule VI, Section 23, as Commentary .01. (Brackets indicate deletions and italics indicate additions.)

Verification of Compared Trades and Reconciliation of Uncompared Trades

Section 23 No Change.

Commentary:

.01 Rule VI, Section 23, requires clearing members to verify and reconcile compared and uncompared trades promptly in accordance with procedures established by the Exchange from time to time. Trades shall be routinely compared during the course of the trading session.

All executing members must be available for the settlement of uncompared trades throughout the trading day and for an appropriate period of time following the close of trading, either in person or through a designated representative empowered to negotiate settlement of any dispute in his name and for his account.

This time period will normally be established when the Trade Processing Department closes and the number of transactions on that day is announced to the trading floor. The minimum amount of time which members and/or their representatives will be required to remain after Trade Processing closes will be as follows:

0-8,000 transactions .... 45 minutes.
8,001 and over..... one hour, 15 minutes.

For purposes of complying with this provision, the authorized representative must be physically present on the Trading Floor during this time.

All authorized representatives shall also be required to be present on the Trading Floor each Saturday immediately prior to expiration for a period of one hour beginning at 6:00 a.m. Pacific time or for longer periods of time as may be determined from time to time by an Exchange representative. A PSE options staff member shall be responsible for determining that such representatives are present for this period.

While there may be occasional instances when a trade must remain uncompared overnight, and be resolved in conformance with Rule VI, Section 27, any member or member organization responsible for an undue number of such occurrences will be subject to disciplinary action by the appropriate Exchange Committee pursuant to Rule XX.

Advice G-3, concerning Trade Comparison Procedures, is to be deleted and incorporated into Rule VI, Section 23, Commentary .01 and has been included to indicate the relevant changes.

G-3

[Subject: Trade Comparison Procedures

[Section 23 of Rule VI] *Rule VI, Section 23,* requires clearing members to [promptly] verify and reconcile compared and uncompared trades *promptly* in accordance with procedures established by the Exchange from time to time. [The unique Trade Comparison System that has been developed by the Exchange for use on the Options Trading Floor will, if properly employed, ensure mutually satisfactory comparison of all transactions within each trading day.]

[The great majority of] [t]*T*rades shall be routinely compared during the course of the trading session[,]. [but appropriate provisions must exist for exceptions arising from unusual volume or similar considerations.]

[Accordingly] All executing members must be available for the settlement of uncompared trades throughout the trading day and for an appropriate period of time following the close of trading, either in person or through a designated representative empowered to negotiate settlement of any dispute in his name and for his account.

This time period will normally be established when the [Data Entry] *Trade Processing* Department closes[,] *and* the number of transactions on that day is announced to the trading floor[, and Preliminary Compared and Uncompared Trade Reports ("Reports") are distributed]. The minimum amount of time which members and/or their representatives will be required to remain after [the distribution of such Reports] *Trade Processing closes* will be as follows:

[0-6,000 transactions ... 15 minutes].
[6,001] *0-8,000 transactions.* [30] *45* minutes.
8,001 and over..... one hour, *15 minutes.*

For purposes of complying with this provision, the authorized representative must be physically present on the Trading Floor during this time.

All authorized representatives shall also be required to be present on the Trading Floor each Saturday immediately prior to expiration for a period of one hour beginning at 6:00 a.m. Pacific time or for longer periods of time as may be determined from time to time by an Exchange representative. A PSE options staff member shall be responsible for determining that such representatives are present for this period.

The Options Floor Trading Committee has determined that there may be a fine of from $100.00 to $5,000.00 for failure to comply with these procedures. Subsequent violations of these procedures may be cause for higher fines or other disciplinary actions.

While there may be occasional instances when a trades must remain uncompared overnight, and be resolved in conformance with Section 27 of Rule VI, any member or member organization who or which shall be responsible for an undue number of such occurrences will be subject to disciplinary action by the

Appropriate Exchange [Options Floor Trading] Committee *pursuant to Rule XX.*

[In any case where a member, member organization or associated person is sought to be disciplined pursuant to this Advice, the Exchange shall bring specific charges, notify such member, organization or associated person of such charges, give such person an opportunity to defend against such charges, and keep a record. A determination by the Exchange to impose a disciplinary sanction shall be supported by a statement setting forth:

(1) Any act or practice in which such member, member organization or associated person has been found to have engaged, or which such member, member organization or associated person has been found to have omitted.

(2) The specific provision of the rules of the Exchange which any such act or practice, or omission to act, is deemed to violate.

(3) The sanction imposed and the reasons therefor.]

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization s Statement on the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the Rule Change is twofold. The first substantative change is to revise the trade comparison procedures by extending the minimum amounts of time which a member/member firm and/or their representative will be required to remain on the options floor after the close of trade processing. The minimum time has been increased to 45 minutes for 0–8,000 transactions. Furthermore, the proposed rule change provides that the time period will commence prior to the distribution of the preliminary compared and uncompared trade reports.

The second purpose of the proposed rule change is to delete Options Floor Procedure Advice G–3 and incorporated it into Rule VI, Section 23 as Commentary .01. This is in keeping with the Exchange's initiative to phase out OFPAs by utilizing commentaries to the rule sections.

The PSE believes that this proposal is entirely consistent with Section 6(b)(5) of the 1934 Act because it will foster coordination with persons engaged in the clearing, setting and processing information with respect to the facilitating transactions in Securities.

(B) Self-Regulatory Organization s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV Solicitation of Comments

Interested person's are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory orqanization. All submissions should refer to the file number in the caption above and should be submitted on or before July 6, 1989.

For the Commission by the Division of Market Regulation, to delegated authority.

Jonathan G. Katz,

Secretary.

June 7, 1989.

[FR Doc. 89–14199 Filed 6–14–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26901; File No. SR–PSE–89–08]

Self-Regulatory Organizations; Notice of Filing Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Summary Sanctioning of Members by Floor Official

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 15, 1989, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Item I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Item 1. Text of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE" or "Exchange"), proposes to amend Rule VI, Section 39, and delete Options Floor Procedure Advice E–4, to provide for the summary sanctioning of PSE members, by floor officials, pursuant to the issuance of a floor citation. (Brackets indicate language to be deleted, italics indicates new language).

Admission to and Conduct on the Options Trading Floor

Section 39.

(a) No Change.

(b) Conduct on the Floor. Upon the determination of *two Floor Officials or of* the Options Floor Trading Committee that [the] *a* member's conduct on the Options Trading Floor of the Exchange is such as to impair the maintenance of a fair and orderly market, or to impair public confidence in the operations of the Exchange, a member of the Exchange may be fined pursuant to the Constitution and Rules of the Exchange. This shall also apply to a member's

failure to adequately supervise an employee to ensure his compliance with this rule. A member adversely affected by a determination made under this Section may obtain review thereof in accordance with the provisions of Rule XX. Fines imposed by *Floor Officials or* the Options Floor Trading Committee hereunder shall not preclude further disciplinary action by an appropriate committee of the Exchange pursuant to the Constitution and Rules of the Exchange.

Commentary:

.01 to .04 No Change.

.05 In the issuance of a floor citation, the following procedure must be observed:

(i) the two Floor Officials will apprise the individual cited of the alleged violation:

(ii) the Floor Officials will then notify the Compliance Department of the alleged violation, and request information regarding prior similar violations by the individual cited;

(iii) the Floor Officials will indicate on the citation either the amount of the fine to be imposed, or that the matter will be referred to the Options Floor Trading Committee;

(iv) the Floor Officials will ask the member to indicate by his signature on the citation that he acknowledges receipt of said citation;

(v) the Floor Officials will give the top copy of the citation to the person alleged to have committed the infraction;

(vi) the Floor Officials will give the remaining copies of the citation to the OBO in attendance for his signature;

(vii) the OBO will then forward the citation to the Compliance Department for processing.

.06 In the instance where two Floor Officials believe that a violation of PSE rules has occurred or may have occurred, but fail to issue a floor citation before the close of trading on the day of the alleged violation, either Floor Official shall, in writing, report the incident and surrounding circumstances to the Surveillance Department, with a copy to the Compliance Department and to the individual cited, within 24 hours after the close of trading on the day of the alleged violation. Thereafter, the Exchange may, for a reasonable and necessary period of time, investigate the incident and the surrounding circumstances, and apprise the appropriate Floor Officials of the results of said investigation.

.07 In the instance where the Floor Officials do not become aware of a violation until the Surveillance/Compliance Departments have discovered the violation and notified the Floor Officials, a floor citation may, for the violations stated below, be issued by the Floor Officials at the time they are so notified. The Floor Officials will then be responsible for issuing a citation and/or report. The violations for which this commentary shall apply are the following:

(i) Rule VI, Section 55(.01) Member failed to timestamp an execution in which he participated as a seller;

(ii) Rule VI, Section 66(a) Member placed, or permitted placement of an order with an OBO for an account in which such member or his organization, any other member or member organization, or any non-member broker/dealer has an interest.

[E-4

Subject: Guidelines for Issuance of Options Floor Citations

Floor Citations are issued, generally, upon the determination of a Floor Official that the conduct of a person authorized to be on the Trading Floor has violated PSE Rules and/or procedures or otherwise has impaired the maintenance of a fair and orderly market or public confidence in the operation of the Exchange.

The Floor Official issuing a Floor Citation must (1) apprise the person accused of violating PSE Rules and/or procedures of the offense charged, and (2) ask the person to indicate by his signature on the citation that he acknowledges receipt of said citation.

If a Floor Official believes a violation of PSE rules and/or procedures has occurred or may have occurred but fails, for whatever reason, to issue a citation before the close of trading on the day of the alleged or possible violation, the Floor Official shall report in writing the incident and circumstances surrounding it to the Surveillance Department, with a copy to the Compliance Department and to the individual cited within 24 hours after the Floor Official becomes aware of the alleged violation.

When a Floor Official, in accordance with paragraph three above, reports to the Surveillance and Compliance Departments an alleged or possible violation of PSE Rules and/or procedures, the Exchange, during a necessary and reasonable time period, may investigate the incident and surrounding circumstances before apprising the subject Floor Official of the disposition of the matter.

If a Floor Official does not become aware of certain violations designated in this Advice E-4 until the Surveillance/Compliance Departments have discovered them, a Floor Citation may be issued at the time of notification to the Floor Official. The Official so notified will then be obligated to issue the citation, and/or report, as required in the preceding paragraphs. The Option Floor Trading Committee has designated the following violation as appropriate for this procedure.

Rule VI, Section 55(.01) Member failed to time-stamp an execution in which he participated as a seller.

Rule VI, Section 66(a) Member placed, or permitted placement of an order with an Order Book Official for an account in which such member or his organization, any other member or member organization, or any non-member broker/dealer has an interest.

The issuance of a Floor citation for conduct alleged to be in violation of PSE Rules and/or procedures, and any disciplinary action by the Options Floor Trading Committee pursuant to the citation, shall not preclude further action by an appropriate Committee of the Exchange.

Accordingly, the Options Floor Trading Committee has determined that the following procedures will be adhered to upon the issuance of such citation:

(a) The Floor Official issuing such citation will give the top copy of the citation to the person alleged to have committed the infraction;

(b) The Floor Official will give the remaining copies of the citation to the OBO in attendance for his signature and referral to the manager;

(c) The OBO manager will then forward the citation to the Director of Surveillance for processing and referral to the Compliance Department for presentation at the next Options Floor Trading Committee meeting].

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for the Proposed Rule Change

The PSE proposes to amend Rule VI, Section 39, to provide for the summary sanctioning of PSE members, by Floor Officials, pursuant to the issuance of a floor citation. In the amending of this rule, Options Floor Procedure Advice E-4 has been deleted, with the consolidation of comparable language into Section 39 as Commentaries .05 through .07 The purpose for such consolidation is to facilitate the PSE's present plan to eventually merge all the Advices into the commentary sections of the Rules of the Board of Governors. Although the proposed language of Commentaries .05 to .07 does not mirror E-4 verbatim, the substance of E-4 has remained unchanged.

The purpose of the proposed rule change is to eliminate certain unnecessary and time-consuming procedures which currently exist in the processing of floor citations. Under the existing system at the PSE, floor citations are issued to a member, member organization, or employee of a member organization when charged with an alleged violation of Exchange rules. The citation is then forwarded to Exchange staff for a complete investigation consisting of witness interviews, rule interpretation, documentary evidence evaluations, and other necessary research. At the completion of the investigation, a memorandum outlining the study is presented to the Options Floor Trading Committee ("Committee") for its evaluation and determination as to disposition of the matter. A finding of guilt against the cited member results in the imposition of a fine in accordance with the Committee's "Recommended Fine Schedule."

Under the proposed amendment to Section 39, the processing of floor citations is greatly simplified and the unnecessary, arduous steps noted above are eliminated. As amended, the Rule provides citing Floor Officials with the discretion, upon the alleged occurrence of a violation, to conduct an immediate investigation and impose an automatic fine according to the same fine schedule as employed by the Committee. Furthermore, due to their location on the trading floor, the Floor Officials have a greater ability to investigate and evaluate the alleged violation. In all circumstances, particularly instances involving egregious or complicating factors, the Floor Officials retain the discretion to refer the matter to the Committee for its determination. A copy of the Options Floor Citation which the Exchange proposes to employ, should this Rule Filing be approved, may be obtained by contacting the Exchange.

The Rule, as amended, does not diminish the due process rights of the individual cited. Similar to the current procedure, whereby the member may appeal the sanction imposed by the Committee, under the proposed procedure the member may appeal the sanction imposed by the Floor Officials, pursuant to Rule XX, Section 11.

Furthermore, the proposed rule change incorporates certain specified safeguards which prevent arbitrary or capricious impositions of fines by Floor Officials. The rule, as amended, requires the participation of two Floor Officials for the issuance of a citation and imposition of a fine. Also, the proposed rule change mandates that the citing Floor Officials confer with Staff before issuing the citation and fine. Moreover, to aid in the systematic functioning of the summary sanctioning procedure, and to correct any problems which may arise therefrom, a monthly recap of those citations handled summarily shall be submitted to the Committee for its review and discussion.

In addition, in order to protect against arbitrary or capricious determinations of sanction amounts, the citing Floor Officials will have, at their disposal, a "Recommended Fine Schedule. Attached as Exhibit I to the proposed rule change is a proposed amendment to the existing Recommended Fine Schedule. Approved by the PSE Board of Governors on April 27 1989, most of the recommended fines for trading violations have been increased by 100%, and the sanctions for non-trading violations, such as disruptive action and standard of dress, have remained unchanged. The purpose for the increased sanctions is to promote public confidence in the operations of the Exchange by discouraging violative conduct. Furthermore, it has been the recent policy of other self-regulatory organizations to impose higher sanctions for minor rule violations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposod rule change between the Commission and any persen, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before July 6, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: June 7 1989.

EXHIBIT I—FLOOR CITATION FINE SCHEDULE

[Within a twelve-month period]

	First	Second	Third
1. Floor Broker failed to properly record the time of receipt, change in limit, or increase in size of an order. (Rule VI, Sec. 42)			
Existing Fine	$50.00	$100.00	$250.00
Proposed Fine	$100.00	$200.00	$500.00
2. Floor Broker failed to use due diligence in the handling or execution of an order. (Rule VI, Sec. 62(a), OFPA A-8)			
Existing Fine	$50.00	$100.00	$250.00
Proposed Fine	$250.00	$500.00	$750.00
3. Floor Broker improperly executed a cross transaction. (Rule VI, Sec. 63, OFPA A-6)			
Existing Fine	$50.00	$100.00	$250.00
Proposed Fine	$100.00	$200.00	$500.00
4. Member failed to give up the name of the clearing member by public outcry when requesting a quote and size of the market or after effecting a trade. (Rule VI, Sec. 40, OFPA D-9)			
Existing Fine	$50.00	$100.00	$250.00
Proposed Fine	Unchanged		
5. Market Maker or Floor Broker violated procedures concerning the Market Maker use of a Floor Broker to effect transactions. (Rule VI, Sec. Nos. 62(a), 64, OFPA B-6, OFPA A-9)			
Existing Fine	$50.00	$100.00	$250.00
Proposed Fine	$100.00	$200.00	$500.00
6. Market Maker failed to respond to demands for bids and/or offers. (Rule VI, Sec. 79)			
Existing Fine	$250.00		
Proposed Fine	$250.00	$500.00	$750.00
7. Market Maker failed to respond to a call for Market Makers by an Order Book Official. (Rule VI, Sec. 67, OFPA B-7)			
Existing Fine	$50.00	$100.00	$250.00
Proposed Fine	$100.00	$200.00	$500.00
8. Improper communication on the Floor by use of hand signals or other means or devices. (Rule VI, Sec. Nos. 39(b), 47, 62 and OFPA F-5)			
Existing Fine	$50.00	$100.00	$250.00
Proposed Fine	$100.00	$200.00	$500.00
9. Improper vocalization of trade by Member. (Rule VI, Sec. Nos. 47, 55(.01), OFPA G-10)			
Existing Fine	$50.00	$100.00	$250.00
Proposed Fine	$250.00	$500.00	$750.00
10. Disruptive action while on the trading floor. (Rule VI, Sec. Nos. 39, 62(a) and OFPA Nos. A-1, F-4)			
Existing Fine	$50.00	$100.00	$250.00
Proposed Fine	Unchanged		
11. Member failed to time-stamp an execution in which he participated. (Rule VI, Sec. 55(.01), OFPA G-12)			
Existing Fine	$25.00	$50.00	$100.00
Proposed Fine	$50.00	$100.00	$200.00
12. Member violated a standard of conduct or dress on the trading floor. (Rule VI, Sec. 39, OFPA F-4)			
Existing Fine	$25.00	$50.00	$100.00
Proposed Fine	Unchanged		
13. Member failed to act in a professional manner. (Rule VI, Sec. 39, OFPA F-4)			
Existing Fine	$50.00	$100.00	$250.00
Proposed Fine	Unchanged		
14. Member placed a non-public order in the Book. (Rule VI, Sec. 66(a))			
Existing Sanction	Informal Letter of Caution.		
Proposed Fine	$25.00	$50.00	$100.00

[FR Doc. 89-14200 Filed 6-14-89; 8:45 am]
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[Rel. No. 34-26900; File No. SR-Phlx-89-11]

Self-Regulatory Organization; Proposed Rule Change By the Philadelphia Stock Exchange, Inc. Relating to Responsibility to Display Best Bids and Offers

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 23, 1989, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange"), pursuant to Rule 19b-4, hereby proposes to amend its Options Floor Procedure Advice A-1 in accordance with PHLX Rule 970: (New text is italicized; deleted text is bracketed):

A-1 Responsibility of Displaying Best Bids and Offers

A Specialist shall use due diligence to [ascertain] *ensure* that the best *available* bid and offer [on his book] is displayed *for those option series in which he is assigned.* [When requested to do so, a Specialist shall use due diligence to ascertain that the best bid and offer in the trading crowd is displayed.]

Bids and offers for the Specialist's own account, bids and offers on the book, and bids and offers established in the crowd are deemed available for display purposes.

Fine Schedule:

1st occurrence—$50.00.

2nd occurrence—$100.00.

3rd occurrence—$250.00.

4th occurrence and thereafter—Sanction is discretionary with Business Conduct Committee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to clarify the responsibility of specialists to display the best bids and offers available on the floor regardless of whether those bids and offers are from a member in the crowd, order on the book, or for the specialist's own proprietary account. This amendment effectively replaces requirements that the specialist only display the best bid and offer on his book or, when asked to do so, from the crowd.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it will promote just and equitable principles of trade, protect investors and promote the public interest by assuring that best bid and offer quotations are displayed on the options and foreign currency options floors from whatever source in the trading crowd. Additionally, the proposal is consistent with section 11A(a)(1)(C) (ii) and (iv) of the Act in that it will promote fair competition among brokers and dealers and the practicability of brokers executing investors' orders in the best market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before July 6, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: June 7 1989.

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[Rel. No. 34-26899; File No. PHLX 89-20]

Self-Regulatory Organizations; Proposed Rule Change By the Philadelphia Stock Exchange, Inc. Relating to Revision of PHLX Rule 970 and Implementation of New Equity and Options Floor Procedure Advices

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 22, 1989 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or the "Exchange"), pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (the "Act"), proposes to (1) amend PHLX Rule 970 and (2) adopt Options Floor Procedure Advice F-8 [1] as follows, respectively:

(1) PHLX Rule 970, entitled "Options Floor Procedure Advices: Violations, Penalties, and Procedures" shall be made applicable to the Equity Floor as well as the Options Floor of PHLX by the deletion of the word "Options" wherever it appears in PHLX Rule 970. The proposed text of PHLX Rule 970, as amended, is attached hereto as Exhibit 1.

(2) The text of the proposed Options Floor Procedure Advice F-8 is set forth as follows:

F-8 Failure to Comply with an Exchange Inquiry

Each Member, member organization or associated person is required to promptly comply with any request of information made by the Exchange's Market Surveillance Department in connection with any investigation within the Exchange's disciplinary jurisdiction.

For the purpose of this rule, information received within ten (10) business days from the date of the original request shall be deemed to meet the requirement of prompt compliance.

The Exchange may, under extenuating circumstances grant extensions to allow for responses beyond the ten (10) business day requirement. Requests for extensions must be submitted in writing to the Market Surveillance Department, prior to the due date of the outstanding request.

Miscellaneous

Fine Schedule:

1st occurrence—Warning.

2nd occurrence—$1,000.

3rd occurrence—$2,500.

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[1] Upon approval of the proposed amendment to PHLX Rule 970 by the Securities and Exchange Commission, the provisions of Options Floor Procedure Advice F-8 would also apply to the PHLX Equity Floor but would thereupon also be designated as Equity Floor Procedure Advice EM-1.

4th occurrence—Sanction is discretionary with Business Conduct Committee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization s Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

On June 4, 1986, the Commission approved SR-PHLX-86-11 [see Securities Exchange Act Rel. No. 23296 (June 4, 1986)] which adopted PHLX Rule 970. Rule 970 establishes a disciplinary scheme for minor rule infractions. The Rule authorizes the PHLX to promulgate "advices" with accompanying set fine schedules that enable the PHLX Market Surveillance Department staff to serve an alleged violator with a Notice of Fine.

The implementation of this minor rule violation plan has benefited the Exchange in several ways: (a) Violators of advices are summarily cited for violations without the Exchange's Business Conduct Committee needing to exercise its discretion on a case-by-case basis (though in every case the Committee has discretion to authorize formal disciplinary action under PHLX Rule 960.2); (b) the imposition of pre-set sanctions for violation of an advice promotes uniform and fair treatment of alleged violators; and (c) if an alleged violator does not contest issuance of an advice, the sanction is predetermined (no greater than $2,500 in all cases) and the violation is reportable to the Commission in a quarterly, abbreviated fashion.

By its official terms, Rule 970 enables "option" floor procedure advices and thus only applies to infractions committed on PHLX's equity options or currency options floor by options floor participants. To date, the Rule's disciplinary scheme has worked smoothly, so that the Exchange has determined to extend the scheme to its equity floor. Accordingly, PHLX proposes to amend Rule 970 to provide for a means of implementing equity floor procedure advices. Akin to implementing options floor procedure advices, the Exchange will file all specific equity floor procedure advices with the Commission as proposed rule changes for the Commission's review and approval. In this regard, the PHLX is hereby also submitting the proposed floor procedure advice, designated both as F-8 and EM-1, whose terms will be applicable to both the options and equity floors, respectively, and their participants.

The purpose of the proposed floor procedure advice is to expedite the investigation process of the PHLX Market Surveillance Department by effectively and quickly enabling the Exchange to reprimand failures to respond in a timely fashion to Surveillance Department information requests.

In accordance with the proposed, more generic nature of PHLX Rule 970, further rule changes regarding equity floor procedure advices shall be appropriately designated as Equity Specialist ("ES"), Equity Floor Broker ("EF") and Equity Miscellaneous ("EM") Floor Procedure Advices.

The proposed rule change is consistent with section 6(b)(1) of the Act in that it will facilitate the enforcement of compliance by PHLX members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of PHLX. In addition, the proposed rule change is consistent with section 6(b)(6) of the Act in that violators of the Exchange's rules will be appropriately disciplined. Finally, the proposal is consistent with section 6(b)(7) of the Act in that it provides a fair procedure for disciplining members and persons associated with members.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days after the date of this publication].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: June 7 1989.

Exhibit No. 1 (Brackets indicates deletions.)

[Options] Floor Procedure Advices; Violations, Penalties, and Procedures

Rule 970. (a) In lieu of commencing a "disciplinary proceeding" as that term is used in Exchange Rules 960.1-960.12, the Exchange may, subject to requirements set forth in this Rule, impose a fine, not to exceed $2,500.00, on any member, member organization, or any partner, officer, director or person employed by or associated with any member or member organization, for any violation of a[n Option] Floor Procedure Advice of the Exchange, which violation the Exchange shall have determined is minor in nature. Any fine imposed pursuant to this Rule and not contested

shall not be publicly reported to the Exchange membership except as may be required by Rule 19d-1 under the Securities Exchange Act of 1934, and as may be required by any other regulatory authority.

(b) In any action taken by the Exchange pursuant to this Rule, the person against whom a fine is imposed shall be served with a written statement, signed by an authorized official of the Exchange's Market Surveillance Department on behalf of the Business Conduct Committee, setting forth (1) the [Options] Floor Procedure Advice(s) alleged to have been violated; (ii) the act or omission constituting each such violation; (iii) the fine imposed for each violation; and (iv) the date by which such determination becomes final and such fine becomes due and payable to the Exchange, or rather, when such determination must be contested, as provided in paragraph (d) hereunder, such date to be not less than seven business days after the date of service of the written statement.

(c) If the person against whom a fine is imposed pursuant to this Rule pays the fine, such payment shall be deemed to be a waiver by such person of his right to a disciplinary proceeding under Exchange Rules 960.1–960.12 and any review of the matter by the Business Conduct Committee, an Exchange Hearing Panel, the Disciplinary Review Committee, or the Exchange Board of Governors.

(d) Any person against whom a fine is imposed pursuant to this Rule may contest the Exchange's determination by filing with the Department of the Exchange taking the action not later than the date by which such determination must be contested a written response meeting the requirements of an Answer" as provided in Rule 960.4, at which point the matter shall be referred to the Business Conduct Committee for their consideration and determination.

(e) The Committee may then (a) decide that the matter be dismissed and the notice of alleged violation be rescinded; (b) decide that the notice, as issued, is valid, whereupon the alleged violator could either pay the fine or contest the matter before a hearing panel; (c) decide that the notice, as issued, should be modified to specify either a higher or lower fine than the one on the notice as issued, whereupon the alleged violator could either pay the new fine or contest the matter before a hearing panel; or (d) decide that the matter merits formal disciplinary action and authorize issuance of a Complaint, pursuant to Exchange Rule 960.2.

(f) If a disciplinary proceeding thereafter results, and the Hearing Panel determines that he has violated the Advice(s) as alleged, the Hearing Panel shall (a) be free to impose any disciplinary sanction provided for in Exchange Rules 960.1–960.12 and (b) determine whether the violation is minor in nature. If determined to be minor in nature, the violation(s) giving rise to the penalty shall not be publicly reported by the Exchange to its membership, except as may be required pursuant to Rule 19d-1, or as may be required by any other regulatory authority; if determined not to be minor in nature, the decision of the Hearing Panel and any penalty imposed shall be publicly reported to the Exchange membership in addition to any filing required by Rule 19d-1, or any other regulatory authority, once such decision becomes "final" under Exchange Rules 960.1–960.12.

[FR Doc. 89-14203 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16984; 811-4856]

Bankers Security Variable Life Separate Account III

June 7 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of proposal to terminate registration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Bankers Security Variable Life Separate Account II ("Applicant").

Relevant 1940 Act Sections: Section 8(f).

Summary of Application: Applicant seeks an order under Section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

Filing Date: The Application was filed on January 3, 1989.

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 July 3, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 4601 Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rappa, Attorney (202) 272–2622 or Clifford E. Kirsch, Special Counsel (202) 272–2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

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, which may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant, a separate account of Bankers Security Life Insurance Society, is registered as an open-end management investment company under the 1940 Act. Applicant's registration statement, filed on September 29, 1986, was declared effective on June 5, 1987

2. On February 18, 1988, the Management Committee of Applicant authorized an Agreement and Plan of Reorganization (the "Plan"). On April 28, 1988, an exemptive order under the 1940 Act was granted by the SEC regarding the Plan (Investment Company Act No. 16384). The Plan was approved by Applicant's policyholders on April 28, 1989.

3. On April 29, 1988, Applicant transferred all of its assets and liabilities to the Bond Portfolio USLICO Series Fund, a Massachusetts business trust registered with the SEC as an open-end management investment company. Simultaneously with the transfer of assets and liabilities, Applicant was combined as a sub-account (the "Bond Sub-Account") with Bankers Security Variable Life Separate Account I. In exchange for Applicant's assets, USLICO Series Fund assumed all obligations and liabilities of Applicant and issued shares of its Bond Portfolio, which shares were recorded as assets of the Bond Sub-Account of Bankers Security Variable Life Separate Account I. The number of shares issued was determined by dividing the value of the net assets of Applicant by $10.00, which was the initial per share value of the Bond Portfolio shares.

4. No debts of Applicant remain outstanding. There are no policyowners having an interest in Applicant at the time of filing of this Application. Applicant is not a party to any current or pending litigation or administrative proceeding at the time of filing of this Application. Applicant is not engaged,

and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-14195 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16985; 811-4857]

Bankers Security Variable Life Separate Account IV

June 7 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of proposal to terminate registration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Bankers Security Variable Life Separate Account IV ("Applicant").

Relevant 1940 Act Sections: Section 8(f).

Summary of Application: Applicant seeks an order under Section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

Filing Date: The Application was filed on January 3, 1989.

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 July 3, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 4601 Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rappa, Attorney (202) 272-2622 or Clifford E. Kirsch, Special Counsel (202) 272-2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

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, which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant, a separate account of Bankers Security Life Insurance Society, is registered as an open-end management investment company under the 1940 Act. Applicant's registration statement, filed on September 29, 1986, was declared effective on June 5, 1987

2. On February 18, 1988, the Management Committee of Applicant authorized an Agreement and Plan of Reorganization (the "Plan"). On April 28, 1988, an exemptive order under the 1940 Act was granted by the SEC regarding the Plan (Investment Company Act Release No. 16384). The Plan was approved by Applicant's policyholders on April 28, 1989.

3. On April 29, 1988, the Applicant transferred all of its assets and liabilities to the Asset Allocation Portfolio of USLICO Series Fund, a Massachusetts business trust registered with the SEC as an open-end management investment company. Simultaneously with the transfer of assets and liabilities, Applicant was combined as a sub-account (the Asset Allocation Sub-Account") with Bankers Security Variable Life Separate Account I. In exchange for Applicant's assets, USLICO Series Fund assumed all obligations and liabilities of Applicant and issued shares of its Asset Allocation Portfolio, which shares were recorded as assets of the Asset Allocation Sub-Account of Bankers Security Variable Life Separate Account I. The number of shares issued was determined by dividing the value of the net assets of Applicant by $10.00, which was the initial per share value of the Asset Allocation Portfolio shares.

4. No debts of Applicant remain outstanding. There are no policyowners having an interest in Applicant at the time of filing of this Application. Applicant is not a party to any current or pending litigation or administrative proceeding at the time of filing of this Application. Applicant is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-14196 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16989; 811-3482]

Bankers Security Variable Life Separate Account II

June 7, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of proposal to terminate registration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Bankers Security Variable Life Separate Account II ("Applicant").

Relevant 1940 Act Sections: Section 8(f).

Summary of Application: Applicant seeks an order under Section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

Filing Date: The Application was filed on January 3, 1989.

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 July 3, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washingon, DC 20549. Applicant, 4601 Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rappa, Attorney (202) 272-2622 or Clifford E. Kirsch, Special Counsel (202) 272-2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

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, which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300)..

Applicant's Representations:

1. Applicant, a separate account of Bankers Security Life Insurance Society, is registered as an open-end management investment company under the 1940 Act. Applicant's registration statement, filed on June 7 1982, was declared effective on July 13, 1982.

2. On February 18, 1988, the Management Committee of Applicant authorized an Agreement and Plan of Reorganization (the "Plan"). On April 28, 1988, an exemptive order under the 1940 Act was granted by the SEC regarding the Plan (Investment Company Act Release No. 16384). The Plan was approved by Applicant's policyholders on April 28, 1989.

3. On April 29, 1988, Applicant transferred all of its assets and liabilities to the Money Market Portfolio of USLICO Series Fund, a Massachusetts business trust registered with the SEC as an open-end management investment company. Simultaneously with the transfer of assets and liabilities, Applicant was combined as a sub-account (the "Money Market Sub-Account") with Bankers Security Variable Life Separate Account I. In exchange for Applicant's assets, USLICO Series Fund assumed all obligations and liabilities of Applicant and issued shares of its Money Market Portfolio, which shares were recorded as assets of the Money Market Sub-Account of Bankers Security Variable Life Separate Account I. The number of shares issued was determined by dividing the value of the net assets of Applicant by $1.00, which was the initial per share value of the Money Market Portfolio shares.

4. No debts of Applicant remain outstanding. There are no policyowners having an interest in Applicant at the time of filing of this Application. Applicant is not a party to any current or pending litigation or administrative proceeding at the time of filing of this Application. Applicant is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary

[FR Doc. 89-14197 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16991; File No. 812-7207]

Ordering Granting Exemptions; Crown America Life Insurance Company et al.

June 8, 1989.

Crown America Life Insurance Company ("Crown America"); Crown America Separate Account B of Crown America ("Account B"); American Crown Life Insurance Company ("American Crown"); American Crown Separate Account B of American Crown ("Account BA") (Account B and Account BA, collectively the Accounts"); C.A.L. Investment Services, Inc., and Dreyfus Service Corporation filed an application on December 28, 1988 and an amendment thereto on March 31, 1989, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 (the Act") exempting them from the provisions of sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the deduction of a mortality and expense risk charge from the assets of the Accounts under a deferred variable annuity contract and an immediate variable annuity certain contract and to permit payment to Crown America and American Crown of a guaranteed death benefit charge from the accumulation value in the respective Account under the deferred variable annuity contract.

A notice of the filing of the application was issued on May 10, 1989, (Investment Company Act Release No. IC-16948). The notice gave interested persons an opportunity to request a hearing and stating that an order disposing of the matter would be issued as of course unless a hearing should be ordered. No request for a hearing has been received, and the Commission has not ordered a hearing.

The matter has been considered and it is found that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Accordingly, *It is ordered,* pursuant to section 6(c) of the Act, that the requested exemption from sections 26 (a)(2)(C) and 27(c)(2) of the Act, be, and hereby are, granted, effective forthwith.

For the Commission, by the Division of the Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-14246 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16992; 812-7264]

Pacific Fidelity Life Insurance Co. et al.

June 8, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the Act").

Applicants: Pacific Fidelity Life Insurance Company ("Pacific Fidelity"), PFL Endeavor Variable Annuity Account ("Variable Account"), and MidAmerica Management Corporation.

Relevant 1940 Act Sections: Exemption requested under Section 6(c) from Sections 26(a)(2) and 27(c)(2).

Summary of Application: Applicants seek an order to permit the deduction of a 1.25% charge for mortality and expense risks from the assets of the Account.

Filing Date: The application was filed on March 2, 1989 and amended on May 26, 1989.

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 July 3, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Pacific Fidelity Life Insurance Company, 4333 Edgewood Road, NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney, (202) 272-3046 or Clifford E. Kirsch, Special Counsel (202) 272-2061 (Office of Insurance Products, 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 commerical copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations

1. The Variable Account was established in connection with the proposed issuance of flexible premium variable annuity contracts ("Contracts").

2. The Variable Account will invest in shares of the Endeavor Series Trust ("Series Fund"). The Series Fund is a newly organized, open-end, diversified management investment company with a number of series, or portfolios. The Variable Account has a number of

subaccounts, each of which invests solely in a specific corresponding portfolio of the Series Fund.

3. Pacific Fidelity will deduct a contract maintenance charge of $35 per Contract Year to compensate Pacific Fidelity for the administrative services provided to Contract owners. Pacific Fidelity also deducts a daily administrative expense charge from the assets of each subaccount of the Variable Account equal to an effective annual rate of .15% of the net assets of the subaccount. Pacific Fidelity does not anticipate any profit from these charges. Pacific Fidelity will monitor its administrative expenses and the proceeds of these charges on at least an annual basis, to ensure compliance with Rule 26a-1 under the Act.

4. Pacific Fidelity currently does not deduct sales charges at the time of investment. However, a contingent deferred sales charge of up to 7% of the amount withdrawn is imposed on certain full surrenders or partial withdrawals of contract value to cover expenses relating to the sale of the Contracts, including commissions to registered representatives and other promotional expenses. The aggregate contingent deferred sales charges are guaranteed never to exceed 8.5% of the premium payments.

5. Pacific Fidelity imposes a daily charge to compensate it for bearing certain mortality and expense risks in connection with the Contracts. This charge is equal to an effective annual rate of 1.25% of the value of the net assets in the Variable Account. Of that amount, approximately .45% is attributable to mortality risks, and approximately .80% is attributable to expense risks. Pacific Fidelity guarantees that this charge will never increase.

6. The mortality risk borne by Pacific Fidelity arises from its contractual obligation to make annuity payments (determined in accordance with the annuity tables and other provisions contained in the Contract) regardless of how long all Annuitants or any individual may live. The expense risk assumed by Pacific Fidelity is the risk that Pacific Fidelity's actual administration cost will exceed the amount recovered through the administrative and contract maintenance charges. Pacific Fidelity also incurs a risk in connection with the death benefit guarantee. On the owner's death, Pacific Fidelity will pay the greater of (a) the contract value, or (b) premium payments (net of withdrawals) plus 4.0% annual interest. There is no extra charge for this guarantee.

7 Pacific Fidelity represents that the charge of 1.25% for mortality and expense risks assumed by Pacific Fidelity is within the range of industry practice with respect to comparable annuity products. This representation is based upon Pacific Fidelity's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. Pacific Fidelity will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

8. Applicants acknowledge that the surrender charge may be insufficient to cover all costs relating to the distribution of the Contracts. Applicants also acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed by the Commission as being offset by distribution expenses not reimbursed by the sales charge. Pacific Fidelity has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Contract owners. The basis for such conclusion is set forth in a memorandum which will be maintained by Pacific Fidelity at its administrative offices and will be available to the Commission.

9. Pacific Fidelity represents that the Variable Account will only invest in management investment companies which undertake, in the event such company adopts a plan under Rule 12b-1 to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, formulate and approve any such plan under Rule 12b-1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-14244 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-24899]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

June 8, 1989.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 3, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Filtration Sciences Corporation (31-838)

Filtration Sciences Corporation ("FSC"), 400 West 45th Street, Chattanooga, Tennessee 37409, a New York corporation and a subsidiary of Filtration Sciences, Inc., a Delaware corporation, has filed an application pursuant to section 2(a)(7) of the Act.

FSC requests an order of the Commission declaring FSC not to be a holding company in connection with its ownership of 14.06% of the outstanding voting securities of Beebee Island Corporation ("BIC"), an electric utility company. Hydra-Co Enterprises, Inc. ("H-C"), a New York corporation and a subsidiary company of Niagara Mohawk Power Corporation, an exempt holding company, and the City of Watertown, New York, own the remaining outstanding voting securities of BIC, 87.78% and 3.16% respectively. FSC states that it cannot veto or block corporate action by BIC because FSC owns only 14.06% of the voting securities of BIC.

FSC manufactures various types of filtration media. FSC, then known as Knowlton Brothers, Inc., acquired the shares in connection with the organization of BIC, which was formed to provide electric energy to its shareholders. FSC no longer uses any of the power generated by BIC. All of the energy generated by BIC is delivered by it to H-C.

The Commission granted an order declaring BIC not to be a subsidiary of the predecessor of FSC. *See Beebee Island Corp.*, 7 S.E.C. 991 (1940). FSC seeks an order declaring it not to be a holding company of BIC pursuant to Section 2(a)(7), for the same reasons that the Commission relied on in *Beebee Island* in granting the order pursuant to Section 2(a)(8) that BIC was not a subsidiary of FSC's predecessor, namely, that FSC does not control or exert a controlling influence over BIC.

General Public Utilities Corporation (70-7473)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed a post-effective amendment to its application-declaration pursuant to sections 9(a), 10 and 12(c) of the Act and Rule 42 thereunder.

By order dated December 29, 1987 (HCAR No. 24550), March 31, 1988 (HCAR No. 24612) and August 5, 1988 (HCAR No. 24691), the Commission, among other things, authorized GPU to repurchase from time to time through December 31, 1992 up to eight million shares of its common stock, par value $2.50 per share. The timing of those repurchases depends upon existing market conditions and the anticipated capital needs of GPU and its subsidiaries. At June 2, 1989, GPU had purchased 6,926,832 shares of its common stock.

GPU now proposes to increase to eleven million the total number of shares of common stock it may repurchase through December 31, 1992. In all other respects, the transactions as heretofore authorized by the Commission herein would remain unchanged. GPU has determined that the current cost of common stock equity is higher than the current cost of borrowed funds used to effect such repurchases.

Savannah Electric and Power Company (70-7497)

Savannah Electric and Power Company ("SEPCO"), 600 Bay Street, East Savannah, Georgia 31401, a subsidiary of The Southern Company, a registered holding company, has filed a post-effective amendment to its application-declaration subject to sections 6(a), 6(b) and 7 of the Act.

By prior Commission order in this matter, SEPCO was authorized to issue and sell from time to time, prior to April 1, 1990, short-term notes to nine banks up to an aggregate principal amount of $25.5 million at any one time outstanding (HCAR No. 24649, May 24, 1988). SEPCO now proposes to amend the agreements with the same nine banks for committed lines of credit totaling $40 million, on the same terms and conditions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-14204 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16993; 812-7258]

The Rodney Square Benchmark U.S Treasury Fund et al., Notice of Application

June 8, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Approval under the Investment Company Act of 1940 ("1940 Act").

Applicants: The Rodney Square Benchmark U.S Treasury Fund, The Rodney Square International Securities Fund, Inc., The Rodney Square Multi-Manager Fund, The Rodney Square Fund, The Rodney Square Tax-Exampt Fund (collectively, the "Funds"), Scudder Fund Distributors, Inc. ("SFD"), Wilmington Trust Company ("Wilmington Trust"), Rodney Square Management Corporation ("RSMC"), and each future investment company or additional portfolio of an existing Fund for which Wilmington Trust or RSMC or their affiliates serve as investment adviser and for which SFD or its affiliates serve as principal underwriter (the Additional Funds").

Relevant 1940 Act Section: Order requested under Section 11(a) of the 1940 Act.

Summary of Application: Applicants see approval to permit exchanges of shares among the Funds at other than their respective net asset values at the time of the exchange.

Filing Date: The application was filed on Feburary 28, 1989, and amended on May 24, 1989, and June 7 1989.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 3, 1989, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Funds, Wilmington Trust, and RSMC, One Rodney Square North, Wilmington, Delaware 19890; SFD, 175 Federal Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney, at (202) 272-3567 or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following if a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations:

1. Each Fund is an open-end, management investment company registered under the 1940 Act.

2. Wilmington Trust is a bank chartered by the State of Delaware which is not a member of the Federal Reserve System. Wilmington Trust is investment adviser to The Rodney Square Benchmark U.S Treasury Fund and the Rodney Square International Equity Fund. Wilmington Trust also serves as one of four portfolio advisers to The Value Protfolio of The Rodney Square Multi-Manager Fund.

3. RSMC is a wholy-owned subsidiary of Wilmington Trust, and is an investment adviser registered under the Investment Advisers Act of 1940. RSMC is investment adviser to The Rodney Square Fund, The Rodney Square Tax-Exempt Fund, and The Rodney Square Multi-Manager Fund.

4. SFD, a broker-dealer reigstered under the Securities Exchange Act of 1934, acts as distributor for each Fund and for funds advised by Scudder, Stevens & Clark, Inc.

5. Applicants seek aproval under Section 11(a) of the 1940 Act to the extent necessary to permit exchanges of shares among the Funds and Additional Funds on a basis other than their respective net asset values at the time of the exchange consistent with revised proposed Rule 11a-3 under the 1940 Act, as it may be further revised or adopted.

Applicants' Legal Conclusions

1. Applicants submit that the approval requested is appropriate and in the public interest, and is consistent with the policies underlying the provisions of the 1940 Act.

2. In proposing revised Rule 11a-3, the SEC determined to permit mutual funds within the same family of funds and their principal underwriters to impose certain charges at the time of an exchange under certain conditions. The requested approval would provide the same relief that would be provided under revised proposed Rule 11a-3 as it currently exists and as it may be further revised or adopted.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. Applicants will comply with the provisions of revised proposed Rule 11a-3 under the 1940 Act, Investment Company Act Release No. 16504 (July 29, 1988) [53 F.R. 30299 (Aug. 11, 1988)], as it curretnly exists and as it may be further revised or adopted.

2. Applicants will obtain an amended order prior to any modification of the exchange offer in a manner inconsistent with the provisions of revised proposed Rule 11a-3 under the 1940 Act as it currently exists and as it may be further revised or adopted, except that an amended order is not required to terminate the exchange offer.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-14245 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16986; 811-4858]

United Services Variable Life Separate Account II

June 7, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

Applicant: United Services Variable Life Separate Account II ("Applicant").

Relevant 1940 Act Sections: Order requested under Section 8(f).

Summary of Application: Applicant seeks an order under Section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

Filing Date: The application was filed on January 3, 1989.

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 July 3, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 950 North Glebe Road, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Attorney (202) 272-3046 or Clifford E. Kirsch, Special Counsel (202) 272-2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

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, which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations:

1. Applicant, a separate account of United Services Life Insurance Company, is registered as an open-end, management investment company under the 1940 Act. Applicant's registration statement, filed on September 29, 1986, was declared effective on June 5, 1987

2. On February 18, 1988, the Management Committee of Applicant authorized an Agreement and Plan of Reorganization (the "Plan"). On April 28, 1988, an exemptive order under the 1940 Act was granted by the SEC regarding the Plan (Investment Company Act Release No. 16384). The Plan was approved by Applicant's policyholders on April 28, 1988.

3. On April 29, 1988, pursuant to the Plan, Applicant transferred all of its assets and liabilities to the Money Market Portfolio of USLICO Series Fund, a Massachusetts business trust registered with the SEC as an open-end, management investment company. Simultaneously with the transfer of assets and liabilities, Applicant was combined as a sub-account (the "Money Market Sub-Account") with United Services Variable Life Separate Account I. In exchange for Applicant's assets, USLICO Series Fund assumed all obligations and liabilities of Applicant and issued shares of its Money Market Portfolio, which shares were recorded as assets of the Money Market Sub-Account of United Services Variable Life Separate Account I. The number of shares issued was determined by dividing the value of the net assets of Applicant by $1.00, which was the initial per share value of the Money Market Portfolio shares.

4. No debts of applicant remain outstanding. There are no policyowners having an interest in Applicant at the time of filing of this Application. Applicant is not a party to any current or pending litigation or administrative proceeding at the time of filing of this Application. Applicant is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-14192 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16987; 811-4859

United Services Variable Life Separate Account III

June 7 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

Applicant: United Services Variable Life Separate Account III ("Applicant").

Relevant 1940 Act Sections: Order requested under Section 8(f).

Summary of Application: Applicant seeks an order under Section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

Filing Date: The application was filed on January 3, 1989.

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 July 3, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicant with the request, either personally or by

mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 950 North Glebe Road, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Attorney (202) 272-3046 or Clifford E. Kirsch, Special Counsel (202) 272-2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

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, which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations:

1. Applicant, a separate account of United Services Life Insurance Company, is registered as an open-end, management investment company under the 1940 Act. Applicant's registration statement, filed on September 29, 1986, was declared effective on June 5, 1987

2. On February 18, 1988, the Management Committee of Applicant authorized an Agreement and Plan of Reorganization (the "Plan"). On April 28, 1988, an exemptive order under the 1940 Act was granted by the SEC regarding the Plan (Investment Company Act Release No. 16384). The Plan was approved by Applicant's policyholders on April 28, 1988.

3. On April 29, 1988, pursuant to the Plan, Applicant transferred all of its assets and liabilities to the Bond Portfolio of USLICO Series Fund, a Massachusetts business trust registered with the SEC as an open-end, management investment company. Simultaneously with the transfer of assets and liabilities, Applicant was combined as a sub-account (the "Bond Sub-Account") with United Services Variable Life Separate Account

I. In exchange for Applicant's assets, USLICO Series Fund assumed all obligations and liabilities of Applicant and issued shares of its Bond Portfolio, which shares were recorded as assets of the Bond Sub-Account of United Services Variable Life Separate Account I. The number of shares issued was determined by dividing the value of the net assets of Applicant by $10.00, which was the initial per share value of the Bond Portfolio shares.

4. No debts of Applicant remain outstanding. There are no policyowners having an interest in Applicant at the time of filing of this Application. Applicant is not a party to any current or pending litigation or administrative proceeding at the time of filing of this Application. Applicant is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary

[FR Doc. 89-14193 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16988; 811-4862]

United Services Variable Life Separate Account IV

June 7 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

Applicant: United Services Variable Life Separate Account IV ("Applicant").

Relevant 1940 Act Sections: Order requested under Section 8(f).

Summary of Application: Applicant seeks an order under Section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

Filing Date: The application was filed on January 3, 1989.

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 July 3, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 950 North Glebe Road, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Attorney (202) 272-3046 or Clifford E. Kirsch, Special Counsel (202) 272-2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

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, which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations:

1. Applicant, a separate account of United Services Life Insurance Company, is registered as an open-end, management investment company under the 1940 Act. Applicant's registration statement, filed on September 29, 1986, was declared effective on June 5, 1987

2. On February 18, 1988, the Management Committee of Applicant authorized an Agreement and Plan of Reorganization (the "Plan"). On April 28, 1988, an exemptive order under the 1940 Act was granted by the SEC regarding the Plan (Investment Company Act Release No. 16384). The Plan was approved by Applicant's policyholders on April 28, 1988.

3. On April 29, 1988, pursuant to the Plan, Applicant transferred all of its assets and liabilities to the Asset Allocation Portfolio of USLICO Series Fund, a Massachusetts business trust registered with the SEC as an open-end, management investment company. Simultaneously with the transfer of assets and liabilities, Applicant was combined as a sub-account (the Asset Allocation Sub-Account") with United Services Variable Life Separate Account I. In exchange for Applicant's assets, USLICO Series Fund assumed all obligations and liabilities of Applicant and issued shares of its Asset Allocation Portfolio, which shares were recorded as assets of the Asset Allocation Sub-Account of United Services Variable Life Separate Account I. The number of shares issued was determined by dividing the value of the net assets of Applicant by $10.00, which was the initial per share value of the Asset Allocation Portfolio shares.

4. No debts of Applicant remain outstanding. There are no policyowners having an interest in Applicant at the time of filing of this Application. Applicant is not a party to any current or pending litigation or administrative proceeding at the time of filing of this Application. Applicant is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-14194 Filed 6-14-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2353; Amdt. 3]

Texas (And Contiguous Counties in the State of Oklahoma); Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with the Notices of Amendment to the President's declaration, dated May 31, June 2, and June 7 1989, to include Anderson, Angelina, Bell, Cass, Cherokee, Collin, Coryell, Denton, Ellis, Grayson, Gregg, Hardin, Harrison, Henderson, Hill, Houston, Jack, Jasper, Jefferson, Liberty, Limestone, McCulloch, Montgomery, Navarro, Newton, Orange, Panola, Polk, San Jacinto, Upshur, Van Zandt, Waller, Wichita, Wise, and Young Counties, in the State of Texas, as a result of damages from severe storms, tornadoes, and flooding beginning on May 4, 1989.

In addition, applications for economic injury from small businesses located in the contiguous counties of Archer, Austin, Baylor, Bowie, Brown, Camp, Coleman, Concho, Freestone, Grimes, Hamilton, Lampasas, Leon, Madison, Mason, Menard, Morris, Rains, Robertson, San Saba, Throckmorton, Trinity, Tyler, Walker, Washington, and Wilbarger, in the State of Texas, and Cotton, Marshall, and Tillman Counties, in the State of Oklahoma, may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on July 17 1989, and for economic injury until the close of business on February 20, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: June 5, 1989.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 89-14171 Filed 6-14-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

[Docket No. 46337]

Japan Charter Authorization Proceeding (1989/1990)

This proceeding has been assigned to Chief Administrative Law Judge William A. Kane, Jr. All future pleadings and other communications regarding the proceeding shall be served on him at the Office of Hearings, M-50 Room 9228, Department of Transportation, 400 Seventh Street, SW., Washington DC 20590. Telephone: (202) 366-2142.

William A. Kane, Jr.,

Chief Administrative Law Judge.

[FR Doc. 89-14233 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

[(Order 89-6-19) Docket 46266]

Application of Casino Express for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding TEM Enterprises, Inc. d/b/a Casino Express fit and awarding it a certificate of public convenience and necessity to engage in domestic scheduled air transportation.

DATES: Persons wishing to file objections should do so no later than June 16, 1989.

ADDRESSES: Objections and answers to objections should be filed in Docket 46266 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Janet A. Davis, Air Carrier Fitness Division (P-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

Dated: June 8, 1989.

Patrick V. Murphy, Jr.,

Deputy Assisstant Secretary for Policy and International Affairs.

[FR Doc. 89-14159 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-62-M

[Order 89-6-20; Docket 46337]

Order Instituting Japan Charter Authorization Proceeding (1989/1990)

AGENCY: Department of Transportation.

ACTION: Institution of the Japan Charter Authorization Proceeding (1989/1990).

SUMMARY: U.S. air carriers can operate only 300 one-way charter flights per year between the United States and Japan under the terms of an Interim Aviation Agreement dated September 7 1982. The aeronautical authorities of each country allocate the charter flights among their carriers. As we have done for the past two years, the Department has decided to institute an evidentiary proceeding before an Administrative Law Judge to determine how these flights should be allocated among U.S. carriers for the October 1, 1989-September 30, 1990 period, and what procedures should be used to reallocate flights returned during the charter year. The Department is inviting interested direct air carriers to file applications to operate the Japan charters at issue.

DATES: Applications (including service proposals and supporting information), petitions for reconsideration of Order 89-6-20 are due June 21, 1989; answers and any requests for an oral evidentiary hearing shall be due June 26, 1989.

ADDRESS: Applications, supporting information, petitions for leave to intervene, petitions for reconsideration and requests for an oral evidentiary hearing should be filed in Docket 46337 addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4107 Washington, DC 20590, and should also be served on the Office of Hearings, Room 9228, at the same address.

Dated: June 8, 1989.

Patrick V. Murphy Jr.

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-14160 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[File No. FAA P-8110-2]

Proposed Changes to FAA P-8110-2. Airship Design Criteria (ADC)

AGENCY: Federal Aviation Administration (FAA). DOT.

ACTION: Notice of availability of proposed changes to FAA P-8110-2. Airship Design Criteria (ADC); request for comments.

SUMMARY: Federal Aviation Administration report FAA P-8110-2.

Airship Design Criteria (ADC), issued November 2, 1987 contains the first acceptable design criteria for type certification of airships. While applying the ADC to actual type certification projects, the FAA has discovered portions of the report that require clarification or revision. This notice announces the FAA's intent to change portions of the ADC and requests comments on the intended changes.

DATE: Comments must be recieved on or before August 14, 1989.

ADDRESS: Comments on the proposed changes to FAA P-8110-2. Airship Design Criteria (ADC), may be mailed or delivered to: Federal Aviation Administration; Aircraft Certification Service; Aircraft Engineering Division; Policy and Procedures Branch, AIR-110: 800 Independence Avenue, SW., Room 335; Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Lyle C. Davis, Aerospace Engineer, Policy and Procedures Branch, AIR-110. Telephone: (202) 267-9583.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the report number (FAA P-8110-2) and be submitted to the adddress specified above. All communications received on or before the closing date for comments will be considered before the ADC is revised.

Background

Prior to the revision of section 21.17(b) of the Federal Aviation Regulations (FAR), in Amendment 21-60, effective April 13, 1987 airworthiness criteria for the type certification of airships were not covered in the FAR. Federal Aviation Administration report P-8110-2. Airship Design Criteria (ADC), issued November 2, 1987 contains the first acceptable design criteria for type certification of airships. The airship design criteria contained in the report are suitable for the U.S. type certification of nonrigid, near-equilibrium, conventional airships. The criteria are based primarily on FAR Part 23—Airworthiness Standards: Normal, Utility, Acrobatic, and Commuter Category Airplanes, U.S. Navy detail design specifications for airships, and additional criteria developed by the FAA and the National Aeronautics and Space Administration.

The ADC are only one means of showing compliance with section 21.17(b). The associated advisory circular, AC 21.17-1. Type Certification—Airships, describes the procedures that an applicant may follow for development and approval of its own airship design criteria in the event that the airworthiness criteria prescribed in the ADC are inadequate or otherwise inappropriate as a certification basis of an airship due to its unique design or design features.

Related FAR

Applicants for approval of airship design criteria should also be aware of the provisions contained in the following related FAR:

Section 21.5—Airplane or Rotorcraft Flight Manual.

Section 21.17—Designation of applicable regulations.

Section 23.—Airworthiness Standards: Normal, Utility, Acrobatic, and Commuter Category Airplanes.

Part 33—Airworthiness Standards: Aircraft Engines.

Part 35—Airworthiness Standards: Propellers.

Part 45. Subpart C—Nationality and Registration Marks.

Section 91.31—Civil Aircraft flight manual, marking, and placard requirements.

Section 91.33—Powered civil aircraft with standard category U.S. airworthiness certificates; instruments equipment requirements.

How To Obtain Copies

A copy of the proposed changes to the ADC may be obtained by contacting the person under "**FOR FURTHER INFORMATION CONTACT**"

Issued in Washington, DC, on June 8, 1989.

William J. Sullivan,

Assistant Manager, Aircraft Certification Service.

[FR Doc. 89-14234 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-13-M

Advisory Circular 21-24, Extending a Production Certificate to a Facility Located in a Bilateral Airworthiness Agreement Country.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice announces the availability of Advisory Circular (AC) 21-24, Extending a Production Certificate to a Facility Located in a Bilateral Airworthiness Agreement Country. Advisory Circular 21-24 provides information and guidance to production certificate holders or applicants concerning: (1) Federal Aviation Administration production certificate holders located in the United States that plan to extend their PC to include a facility located in another country; (2) and the issuance of a PC to an applicant located in the United States when the applicant is engaged in a multinational coproduction program whereby major manufacturing facilities will be located in other countries. This AC further provides for extending a technical standard order authorization (TSOA) to include the production of auxiliary power units (APU) at a facility located in another country, in accordance with the criteria contained in this AC for a PC holder.

ADDRESS: Copies of AC 21-24 can be obtained from the following: Federal Aviation Administration, Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591.

Issued in Washington, DC on May 12, 1989.

John K. McGrath,

Acting Assistant Director, Aircraft Certification Service

[FR Doc. 89-14236 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-13-M

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Birmingham Municipal Airport, Birmingham, AL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Birmingham Airport Authority for the Birmingham Municipal Airport, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for the Birmingham Municipal Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before November 28, 1989.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is June 1, 1989. The public comment period ends July 31, 1989.

FOR FURTHER INFORMATION CONTACT: Elton E. Jay, Civil Engineer, Jackson

Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306; telephone number (601) 965–4628. Comments on the proposed noise compatibility program should also be submitted to this address.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Birmingham Municipal Airport are in compliance with applicable requirements of Part 150, effective June 1, 1989. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before November 28, 1989. This notice also announces the availability of this program for public review and comment.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Birmingham Airport Authority submitted to the FAA on March 6, 1987 the FAR Part 150 Noise Exposure Map and Compatibility Program, Birmingham Airport, which was produced during the period June 1985 to March 1987 It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and the surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Birmingham Airport Authority. The specific maps under consideration are Base Year 1987 Noise Exposure Map and the Forecast Year 1992 Noise Exposure Map. The FAA has determined that these maps for the Birmingham Municipal Airport are in compliance with applicable requirements. This determination is effective on June 1, 1989. FAA s determination on an airport operator's noise exposure maps is limited to finding that the maps were developed in accordance with the procedure contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land-use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for the Birmingham Municipal Airport, also effective on June 1, 1989. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before November 28, 1989.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land-use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue SW., Room 617 Washington, DC 20591.

Airports District Office, 120 North Hangar Drive, Suite B, Jackson Mississippi 39208–2306;

Birmingham Airport Authority, 5900 Messer-Airport Highway, Birmingham, Alabama 35212.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Jackson, Mississippi, June 1, 1989.

Newton L. Taylor,

Manager, Airports District Office.

[FR Doc. 89–14237 Filed 6–14–89; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Wilkes-Yadkin Counties, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Wilkes and Yadkin Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth L. Bellamy, Division Administrator, Federal Highway Administration, 4505 Falls of the Neuse Road, Suite 470, Raleigh, North Carolina 27609, Telephone (919) 790–2950.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS)

for a highway project covering the proposed improvements and possible relocation of US 421 from SR 2433 east of Wilkesboro in Wilkes County to I-77 in Yadkin County, a distance of approximately 11 miles. The proposed action consists of improving the existing roadway to either a four-lane divided expressway or freeway or constructing a four-lane divided expressway on new location. The proposed project is needed to serve traffic demand in the area and will help spur economic development in the area. It will provide a much needed alternative route for US 421 traffic and will relieve the congestion, delay, and inconvenience currently being experienced along this highway.

Alternatives under consideration include (1) the "no-build" (2) improving existing US 421, (3) construction of a freeway or expressway along the existing US 421 alignment, and (4) construction of an expressway on new location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State, and local agencies. Public meetings and meetings with local officials will be held in the project area. A corridor public hearing and a design public hearing will be held. Information on the time and location of the public meetings and public hearings will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the corridor public hearing. No formal scoping meeting is planned at this time.

To insure that the full range of issues relating to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 7 1989.

Roy C. Shelton,

District Engineer, FHWA, Raleigh, North Carolina.

[FR Doc. 89-14280 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-22-M

Uniform Relocation and Real Property Acquisition for Federal and Federally-Assisted Programs; Fixed Payment for Moving Expenses; Residential Moves; American Samoa, Commonwealth of the Northern Mariana Islands, and Guam

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The purpose of this notice is to supplement the moving expense and dislocation allowance schedule, published March 2, 1989 (54 FR 8951), that established amounts that are available to persons displaced by Federal and federally assisted projects, pursuant to section 202(b) (42 U.S.C. 4622(b)) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act). This notice adds payment schedules for American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam.

EFFECTIVE DATE: The provisions of this notice are effective June 15, 1989.

FOR FURTHER INFORMATION CONTACT: Barbara J. Satorius, Policy Development Branch, Office of Right-of-Way (202-366-1371); or Reid Alsop, Office of the Chief Counsel (202-366-1371), Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., except legal holidays.

SUPPLEMENTARY INFORMATION: Section 202(b) of the Uniform Act provides that a displaced individual or family may elect to be paid for moving expenses on the basis of a moving expense and dislocation allowance schedule established by the head of the lead agency as an alternative to being paid for moving and related expenses actually incurred. The FHWA has been designated as the Federal government's lead agency for implementing the Uniform Act, and implementing regulations at 49 CFR 24.302 provide that the FHWA approves the schedule.

On March 2, 1989 (54 FR 8951), the FHWA published a Residential Moving Expense and Dislocation Allowance Payment Schedule that covered all the 50 States as well as the District of Columbia, Puerto Rico, and the Virgin Islands. Since publication of that schedule, it has been brought to the attention of the FHWA that Federal or federally assisted projects involving the acquisition of real property and/or the displacement of persons; and hence covered by the Uniform Act, may be undertaken in American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. (These jurisdictions are included in the Uniform Act's definition of "State" in section 101(2) (42 U.S.C. 4601(2)).

We are, therefore, supplementing the current March 2 schedule to include the following payment information for American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(42 U.S.C. 4601; 49 CFR 24.302(a)).

Issued on: June 9, 1989.

R.D. Morgan,

Executive Director.

RESIDENTIAL MOVING EXPENSE AND DISLOCATION ALLOWANCE PAYMENT SCHEDULE

State	Occupant owns furniture									Occupant does not own furniture [3]	
	Number of rooms of furniture								Each additional room	First room	Each additional room
	1	2	3	4	5	6	7	8			
American Samoa	250	350	450	550	625	700	775	850	75	200	25
Commonwealth of the Northern Mariana Islands	250	350	450	550	625	700	775	850	75	200	25
Guam	250	350	450	550	625	700	775	850	75	200	25

Exceptions:
Persons whose residential move is performed by agency. $50
[2] Move of a mobile home from site, actual cost; reasonable amount may be added for packing and securing personal property for the move at agency discretion.
[3] Occupant of dormitory, $50

[FR Doc. 89-14271 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. 89-09, Notice 01]

Driving Range Determination for Dual Fuel Passenger Automobiles As Required by the Alternative Motor Fuels Act of 1988

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments.

SUMMARY: The purpose of this request for comments is to announce that NHTSA is considering the proposal of a minimum driving range for two groups of dual energy passenger automobiles: those operating on alcohol and either gasoline or diesel fuel, and for those operating on natural gas and either gasoline or diesel fuel. The minimum driving range would apply when the fuel in use was either alcohol or natural gas. Comments are requested in a number of areas to assist the agency in developing the proposal.

DATE: Comments must be received on or before July 17,1989.

ADDRESSES: Comments on this notice must refer to the docket and notice numbers set forth above and then be submitted (preferably 10 copies) to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 8 a.m. to 4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NRM-21, Room 5320, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-0846.

SUPPLEMENTARY INFORMATION: The Alternative Motor Fuels Act of 1988 (Pub. L. 100-494, October 14, 1988) has two essential purposes: (1) To encourage the development and widespread use of methanol, ethanol, and natural gas as transportation fuels by consumers; and (2) to promote the production of methanol, ethanol, and natural gas powered motor vehicles.

In seeking to carry out these goals, the Act attempts to balance two competing objectives: (1) The offering of incentives for the production of alternative fuel cars; and (2) The establishment of a minimum driving range for alternative fuel cars so as to avoid discouraging motorists from fueling their dual energy cars with the alternative fuel.

Section 6(a) of the Act requires that the Secretary of Transportation establish, within 18 months of enactment, a minimum driving range of no less than 200 miles for dual energy automobiles when operating on alcohol and an unspecified minimum range for natural gas dual energy automobiles when operating on natural gas. This minimum range requirement pertains only to passenger cars and does not apply to light trucks.

To institute the driving range stipulated by section 6(a), the agency is engaged in a series of efforts to establish a minimum driving range for dual energy automobiles (those operating on alcohol and either gasoline or diesel fuel) and for natural gas dual energy automobiles (those operating on natural gas and either gasoline or diesel fuel).

For reference, NHTSA has conducted a quantitative study of the driving range of conventional gasoline fueled passenger cars using the 25 top selling cars for Model Year 1988. This study was based primarily on fuel tank capacity and the lowest combined fuel economy rating for each of these cars, as used by the Environmental Protection Agency (EPA) in the calculation of the average fuel economy for the manufacturers. All cars in the study used gasoline for fuel. The following data were assembled for each car: EPA vehicle size class, 1988 sales, 1988 sales with "corporate cousins" (related models; e.g., Ford Taurus and Mercury Sable), lowest EPA combined fuel economy rating, and fuel tank capacity. (See table.) The lowest EPA rating for each car is typically found with the largest engine option and an automatic transmission. These 25 vehicles represented about 51 percent of the total passenger car sales for 1988. When corporate cousins were included, they represented about 63 percent of 1988 car sales.

From these data, NHTSA calculated the driving range of each automobile from the product of the lowest EPA combined fuel economy rating and the fuel tank capacity. Then, the automobiles were categorized into four driving range groups: (a) Less than 350 miles, (b) 350-399 miles, (c) 400-449 miles, and (d) 450 miles or more. Only one model, a subcompact, had a driving range of less than 350 miles. Its fuel tank capacity was 15.4 gallons. Twelve models had driving ranges of 350 to 399 miles. This group of vehicles spanned a range of sizes from subcompact to large with fuel tank capacities ranging from 10.6 to 18.0 gallons and averaging 14.7 gallons. Six models had driving ranges of 400 to 449 miles. This group of vehicles was predominantly midsize with fuel tank capacities ranging from 13.2 to 18.0 gallons and averaging 15.2 gallons. Six models maintained minimum driving ranges of 450 miles or more with fuel tank capacities ranging from 15.9 to 24.5 gallons and averaging 19.2 gallons. This group included compact to large passenger cars.

Overall, the popular gasoline-fueled models in each driving range group varied considerably in terms of size, EPA combined fuel economy rating, and fuel tank capacity. The average minimum driving range for all 25 models was 405 miles, ranging from a low of 345 miles to a high of 549 miles. Nineteen (or 76 percent) of the models had a driving range of 416 miles or less.

The setting of a minimum driving range for dual energy automobiles must balance the needs of the consumer with the technical and economic considerations that are faced by the manufacturers. A low minimum driving range requirement might encourage the production of dual fueled cars, but lead to dual fueled cars being designed with such a low alternative fuel driving range that consumers do not buy them or, even if they buy them, infrequently operate them on the alternative fuel. Conversely, an excessively stringent minimum driving range requirement might discourage the production of dual-fueled cars and unnecessarily compromise other vehicle attributes and aspects of performance. Manufacturers would be discouraged by overly-stringent minimum range because a vehicle which does not meet the minimum driving range for its type is by definition excluded from the definition of dual energy or natural gas dual energy vehicle, and is thus unlikely to be built since the manufacturer would not receive any of the benefits or incentives provided by the Act.

From the viewpoint of the consumer, the necessary driving range may be dictated by the convenience of a range that permits a typical workweek travel distance, or a daily travel distance for a fleet car. Also, if the majority of consumers would use a dual energy vehicle in an urban area with more refueling stations or in a fleet application with a central refueling station, a large driving range may be less critical.

To aid the agency in relating the data on driving range for gasoline-fueled vehicles to the unique characteristics of dual fuel passenger automobiles, we are asking a number of questions in the following areas on the use of dual

energy passenger automobiles and natural gas dual energy passenger automobiles: consumer acceptability, economic practicability, technology, environmental impact, safety, driveability, and performance. Information on other factors is welcome. The data provided in response to these questions will be considered by NHTSA in developing a proposed minimum driving range for the previously specified dual fuel automobiles. The data will also aid the agency in making preliminary judgments about such fundamental matters as the extent to which manufacturers would seek to achieve the selected range in designing dual energy passenger automobiles, the production volumes or schedules for those vehicles, the cost and other implications of different ranges, and the likely consumer response to different ranges. For easy reference, the questions are numbered consecutively throughout the document.

In providing a comment on a particular matter or in responding to a particular question, interested persons are requested to provide any relevant factual information to support their conclusions or opinions, including but not limited to test data, statistical and cost data, and the source of such information. The agency is particularly interested in quantitative evaluations of anticipated environmental impacts and energy conservation impacts.

NHTSA requests information and comments on the following questions:

1. How did manufacturers arrive at the driving ranges for their current gasoline-fueled passenger cars? Did they use surveys or competitive comparisons? Is there any trend toward increased or decreased driving ranges?

2. Is it more useful to the consumer to establish the driving range based on (a) an unadjusted combined EPA/highway fuel economy value as specified in the corporate average fuel economy regulation or (b) an adjusted combined city/highway fuel economy value which better represents actual fuel economy experienced by the consumer? The adjusted fuel economy values are nominally 15 percent lower than the unadjusted values when adjustment factors of 10 percent for city driving and 22 percent for highway driving are applied. The adjusted fuel economy values are listed in EPA's "Gas Mileage Guide" and appear on the fuel economy label on the vehicle.

3. Would dual energy vehicles be generally utilized by consumers residing in urban areas and by fleets where it would be practical to provide for refueling at centralized facilities as opposed to consumers in rural areas? Please discuss the basis for your answer and specify whether your answer applies to alcohol or natural gas alternative fuels.

4. What driving range does the consumer expect from the passenger cars that he operates? Does the range vary with the size or typical use of the car; e.g., a subcompact car as compared to a large station wagon, or a car typically used for city commuting compared to one used primarily for urban and intercity driving? Does the expected driving range vary with the economic or social profile of the car operator; e.g., are younger drivers satisfied with smaller ranges or do high-income drivers demand greater driving ranges? Would the consumer be willing to accept a lower driving range in a vehicle with the added flexibility of dual fuel capability or would the consumer expect greater driving range with the alternative fuel in anticipation of fewer distribution points for alternative fuel? What is the minimun driving range acceptable to consumers? Please specify whether your answers apply to alcohol or natural gas alternative fuels.

5. Do vehicle manufacturers consider availability of fuel distribution points in establishing driving ranges? Please specify whether your answer applies to alcohol or natural gas alternative fuels.

6. Describe any trade-off of fuel tank size with cost that would dictate an upper limit for fuel tank size for economic practicability. Does the economic practicability of large fuel tank sizes differ for alcohol and natural gas fuel systems? Are there any economies of scale that would encourage larger fuel tanks for either alcohol or natural gas dual fueled cars? Please specify whether your answer applies to alcohol or natural gas alternative fuels.

7 Describe any technological limit on the size of fuel tank that can reasonably be used on dual fueled passenger cars that operate on either alcohol or natural gas. What determines this limit? Please specify whether your answer applies to alcohol or natural gas alternative fuels.

8. Does the specific driving range or fuel tank size of dual fueled cars create any environmental impacts that could be mitigated by choosing a different range or tank size? Please discuss the basis for your answer and specify whether your answer applies to alcohol or natural gas alternative fuels.

9. For larger fuel tanks for either alcohol or natural gas fuel, please discuss any significant safety or fire problems for the occupants of the dual fueled car or any object with which the car may collide. Is there an optimum tank size for either alcohol or natural gas fuel that would minimize potential safety problems? Please explain your answer and specify whether it applies to alcohol or natural gas alternative fuels.

10. Would the driveability (i.e., handling and performance) of a dual fueled car be penalized by a requirement for a driving range comparable to that for typical gasoline-fueled cars? Will there be significant changes in either handling or performance of a dual fueled vehicle, as the on-board fuel quantity changes from a full tank to a nearly empty tank, that could endanger the safety of the occupants? Would the safety risks of any changes in performance or handling be reduced to a more acceptable level with a smaller tank size? Can an optimum driving range standard for dual fueled vehicles be established from driveability considerations? Please explain your answers and specify whether they apply to alcohol or natural gas alternative fuels.

11. Is it likely that dual energy passenger car applications may emphasize increased performance capabilities available with the alternative fuel and consequently result in lower consumer expectations for driving range. Please discuss your answer and specify whether it applies to alcohol or natural gas alternative fuels.

12. How do style or appearance considerations limit the size of the fuel tank that can be accommodated for natural gas or alcohol alternative fuels? Please specify whether your answer applies to alcohol or natural gas alternative fuels.

13. What other factors, if any, should the agency consider in establishing the driving range for dual fueled passenger cars when operated on alcohol or natural gas? Please specify whether your answer applies to alcohol or natural gas alternative fuels.

14. What do you recommend as the minimum driving range for dual fueled passenger cars when operating on alcohol or natural gas? Please specify whether your answer applies to alcohol or natural gas alternative fuels.

NHTSA solicits public comments on this notice. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the

complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above will be considered. Comments in response to this request for comments will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt on their comments in the docket should enclose a self-addressed, stamped envelope with their comments, the docket supervisor will return the postcard by mail.

Issued on June 9, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

25 TOP SELLING CARS FOR MY 1988

Driving range (miles)	Make/model	EPA vehicle classes (car)	1988 sales**	Per-cent of total	1988 sales with corporate cousins*	Per-cent of total	Lowest combined fuel economy rating, mpg	Fuel tank capacity (U.S. gals.)	Low driving range (miles)
Less than 350.	Ford Mustang	Subcompact	170,080	1.6	170,080	1.6	22.4	15.4	345.0
	Average						22.4	15.4	345
350–399	Hyundi Excel	Subcompact	264,282	2.5	285,895	2.7	33.8	10.6	358.3
	Pontiac Grand Am	Compact	231,010	2.2	395,473	3.7	26.5	13.6	360.4
	Chev. Cavalier	Compact	306,267	2.9	432,927	4.1	26.5	13.6	360.4
	Chev. Corsica/Beretta	Compact	380,301	3.6	380,301	3.6	26.5	13.6	360.4
	Honda Civic	Subompact	173,759	1.6	173,759	1.6	30.6	11.9	364.1
	Mercury Sable	Mid-size	119,218	1.1	493,845	4.6	22.9	16.0	366.4
	Ford Taurus	Mid-size	374,627	3.5	***		22.9	16.0	366.4
	Toyota Corolla	Subcompact	159,040	1.5	159,040	1.5	28.3	13.2	373.6
	Ford Tempo	Compact	285,141	2.7	377,864	3.6	24.4	15.4	375.8
	Toyota Camry	Compact	227,140	2.1	227,140	2.1	24.5	15.9	389.6
	Lincoln Town Car	Large	121,674	1.1	121,674	1.1	21.9	18.0	394.2
	Mercury Grand Marquis	Large	114,385	1.1	228,597	2.1	21.9	18.0	394.2
	Average						25.9	14.7	372.0
400–449	Nissan Sentra	Subompact	247,109	2.3	247,109	2.3	31.2	13.2	411.8
	Cadillac DeVille (fwd)	Mid-size	160,291	1.5	318,092	3.0	22.9	18.0	412.2
	Ford Escort	Compact	387,815	3.6	387,815	3.6	32.0	13.0	416.0
	Buick Century	Mid-size	252,861	2.4	845,444	7.9	26.5	15.7	416.1
	Olds Ciera	Mid-size	131.994	1.2			26.5	15.7	416.1
	Chev. Celebrity	Mid-size	237,386	2.2			26.5	15.7	416.1
	Average						27.6	15.2	414.7
450 or more	Buick Regal (W-body)	Mid-size	115,609	1.1	312,164	2.9	27.3	16.6	453.2
	Olds Delta 88	Large	158,205	1.5	407,340	3.8	26.6	18.0	478.8
	Buick LeSabre	Large	141,440	1.3			26.6	18.0	478.8
	Ford Thunderbird	Compact	117,866	1.1	218,827	2.1	22.4	22.1	495.0
	Chev. Caprice	Large	172,993	1.6	172,993	1.6	22.4	24.5	548.8
	Average						25.7	19.2	486.2
	Ttotal		5,413,156	50.9	6,719,042	63.2			
	Overall Average						25.4	16.1	404.5

*Corporate Cousins may include other makes/models listed in this table and/or other MY 1988 vehicles.
**Source: Ward's Automotive Repot, January 9, 1989.
***The 1988 Sales and the percentage of total are listed with its Corproate Cousins immediately above.

[FR Doc. 89-14205 Filed 6-14-89; 8:45 am]
BILLING CODE 4910-59-M

Research and Special Programs Administration

Applications for Exemptions; Hazardous Material

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107 Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft

DATES: Comments must be received on or before July 17 1989.

Address comments to: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW Washington, DC.

New Exemptions

Application number	Applicant	Regulation(s) affected	Nature of exemption thereof
10187-N	Hexcel Corporation, Dublin, CA	49 CFR 172.400(a).	To authorize shipment of limited quantities of toluene diisocyanate, a Class B poison, in solution polyethylene cartridges in heat sealed foil lined spun bound polyolefin bags, 24 cartridges in a 175 lb test double-faced fibreboard box lined with a 2 mil polyethylene bag without labeling. (mode 1)
10188-N	Chevron U.S.A., Inc., San Francisco, CA	49 CFR 173.119	To authorize shipment of crude oil petroleum classed as a flammable liquid in non-DOT specification, 5-gallons 12-gauge wall-thickness stainless steel containers not to exceed 4 containers in a steel frame, fiberglass reinforced transport cart. (modes 1, 3)
10190-N	U.S. Department of the Army, Falls Church, VA	49 CFR 172.101, 175.3.	To authorize shipment of loose lithium sulfur dioxide batteries in metal containers meeting the requirements of mil spec. MIL-D-18876 and similar to the DOT Specifications 17H or 17C containers packed 4 batteries per container in vermiculite. (modes 1, 2, 3, 4, 5)
10193-N	HLA Engineers, Inc., Dallas, TX	49 CFR 173.315, 178.245-1(2)(b).	To manufacture, mark and sell portable tanks comparable to DOT specification 51 except the inlet and outlet openings will be located at the lower side of the tank, for shipment of anhydrous ammonia and LP gas. (modes 1, 2, 3)
10194-N	International Trading House Inc., Houston, TX	49 CFR 173.315	To authorize shipment of chlorine classed as a non-flammable gas in non-DOT specification portable tanks in an ISO frame. (modes 1, 2, 3)
10195-N	Catalyst Resources, Inc., Pasadena, TX	49 CFR 173.34(e), 173.34(e).	To authorize an increase in hydrostatic test interval from 5 years to 15 years for DOT specification 4BW225 and 4BW240 cylinder used for the shipment of certain flammable or corrosive materials. (modes 1, 2, 3)
10197-N	Morton Thiokol, Inc., Brigham City, UT	49 CFR 173.92	To authorize shipment of an igniter, rocket motor, Class B explosive in a specialy designed non-DOT specification plywood box. (mode 1)

This notice of receipt of application for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on June 9, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Do. 89-14229 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107 Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before June 30, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW Washington, DC.

Application	Applicant	Renewal of exemption
3415-X	U.S. Department of Defense, Falls Church, VA	3415
4354-X	Pennwalt Corporation, Buffalo, NY	4354
4354-X	Vanchem, Inc., Lockport, NY	4354
4354-X	PPG Industries, Incorporated, Pittsburgh, PA	4354
4453-X	Woodard Explosives, Inc., Albuquerque, NM	4453
4661-X	Foote Mineral Company, Malvern, PA	4661
6657-X	Liquid Air Corporation, Walnut Creek, CA	6657
6672-X	Colt Industries/Chandler Evans, Inc., West Hartford, CT	6672
6759-X	Atlas Powder Company, Dallas, TX	6759
6874-X	Goldstone Supply Corp., Sparks, NV	6874
6902-X	Halocarbon Products Corporation, North Augusta, SC	6902
6902-X	Great Lakes Chemical Corporation, El Dorado, AR	6902

Application	Applicant	Renewal of exemption
7035-X	Owens-Illinois Plastic Products Inc., Toledo, OH	7035
7458-X	Ekohwerks Company, Eastlake, OH (See Footnote 1)	7458
8208-X	Jet Propulsion Laboratory (JPL), Pasadena, CA	8028
8209-X	Coastal Planes Airways, Incorporated, Warner Robins, GA	8209
8214-X	Morton Thiokol, Inc./Automotive Products Div., Ogden, UT (See Footnote 2)	8214
8215-X	Olin Corporation/Winchester Group, East Alton, IL (See Footnote 3)	8215
8230-X	Fisher Scientific Company, Fair Lawn, NJ	8230
8239-X	Westinghouse Electric Corporation, Pittsburgh, PA	8239
8307-X	U.S. Department of Energy, Washington, DC	8307
8445-X	S & W Waste, Inc., South Kearny, NJ	8445
8445-X	Merrell Dow Pharmaceuticals Inc., Cincinnati, OH	8445
8445-X	Rhone-Poulenc AG Company, Research Triangle Park, NC	8445
8453-X	Austin Powder Company, Cleveland, OH	8453
8453-X	Atlas Powder Company, Dallas, TX	8453
8518-X	Universal Engineering Incorporated, Concord, CA	8518
8519-X	Polish Ocean Lines, Gdynia, Poland	8519
8645-X	Austin Powder Company, Cleveland, OH	8645
8693-X	Matheson Gas Products, Secaucus, NJ	8693
8706-X	Prairie State Equipment, Inc., Sioux Falls, SD (See Footnote 4)	8706
8771-X	Chase Packaging Corporation, Greenwich, CT (See Footnote 5)	8871
8978-X	Battery Engineering, Inc., Hyde Park, MA	8978
8995-X	Olin Corporation, Brook Park, OH (See Footnote 6)	8995
9023-X	Chemical Industries of Northern Greece (SICNG), Thessaloniki, Greece	9023
9067-X	Watco Truck Rigging, Inc., Odessa, TX	9067
9082-X	Rhone-Poulenc Ag Company, Research Triangle Park, NC	9082
9140-X	Crown Rotational Molded Products, Inc., Marked Tree, AR	9140
9181-X	Whittaker-Yardney Power Systems, Waltham, MA	9181
9181-X	U.S. Department of Defense, Falls Church, VA	9181
9316-X	Fluoroware Inc., Chaska, MN (See Footnote 7)	9316
9346-X	Witco Corporation, Bradford, PA	9346
9347-X	Precision General, Inc., Houston, TX	9347
9367-X	Stone Container Corporation, Schaumburg, IL	9367
9400-X	Poly Cal Plastics, Inc., French Camp, CA	9400
9402-X	Exsif SA (France), Versailles, France	9402
9416-X	Mobay Corporation, Kansas City, MO	9416
9416-X	CIBA-GEIGY Corporation, Ardsley, NY	9416
9421-X	Taylor-Wharton, Division of Harsco Corporation, Harrisburg, PA	9421
9449-X	Rhone-Poulenc Ag Company, Research Triangle Park, NC	9449
9462-X	Aztec Metal Fabricating Co., Odessa, TX	9462
9466-X	Rhone-Poulenc Ag Company, Research Triangle Park, NC	9466
9481-X	C-I-L, Inc., North York, Ontario, CN	9481
9485-X	Kaw Valley, Inc., Leavenworth, KS	9485
9488-X	Conference of Radiation Control Program Directors, Frankfort, KY	9488
9499-X	Cleveland Container Corporation, Cleveland, OH	9499
9528-X	U.S. Department of Defense, Falls Church, VA	9528
9529-X	Viskase Corporation, Chicago, IL	9529
9623-X	Woodward Explosives, Inc., Albuquerque, NM	9623
9658-X	Fluoroware, Inc., Chaska, MN (See Footnote 8)	9658
9658-X	Fluoroware, Inc., Chaska, MN (See Footnote 9)	9658
9713-X	Acadia Industries, Inc., Crowley, LA	9713
9715-X	Pennwalt Corporation, Buffalo, NY	9715
9727-X	Sherex Chemical Company, Inc., Dublin, OH	9727
9733-X	Rheem Container Corporation, Kingwood, TX	9733
9770-X	AMSPEC Chemical Corporation, Gloucester City, NJ	9770
9775-X	Essex Environmental Industries, Inc., Hurst, TX (See Footnote 10)	9775
9783-X	Helios Container Systems, Inc., Addison, IL	9783
9790-X	Taylor-Wharton, Division of Harsco Corporation, Indianapolis, IN	9790
9806-X	Stone Container Corporation/Bag Division, Schaumburg, IL	9806
9900-X	Natico, Inc., Chicago, IL (See Footnote 11)	9900
9951-X	Olin Ordnance, St. Petersburg, FL	9951
9985-X	Taylor-Wharton Division of Harsco Corporation, Indianapolis, IN (See Footnote 12)	9985
10145-X	Automatic Sprinkler Corporation of America, Cleveland, OH (See Footnote 13)	10145
10186-X	E.I. du Pont de Nemours and Company, Wilmington, DE	10186

(1) To renew, and to authorize shipment of certain commodities presently shipped in DOT Specification 3E cylinders and update cylinder criteria.
(2) To authorize the addition of a new bulk pack for automobile module assemblies classed as flammable solids.
(3) To renew and authorize shipment of scrap smokeless powder, wet with 30% water, classed as flammable solid instead of scrap propellant explosive, Class B explosive.
(4) To authorize use of a full opening rear door feature on the non-DOT Specification cargo tanks used for the shipment of liquid and semi-solid.
(5) To renew and authorize increase in capacity of bulk bag (2,200 pounds) instead of 2,000 pounds.
(6) To authorize the addition of blowing agent formulations and transportation of products in a dual cargo tank configuration complying with DOT Specification MC-331.
(7) To authorize the addition of 72% Perchloric acid classed as an oxidizer and/or corrosive.
(8) To authorize the addition of 72% Perchloric acid classed as an oxidizer and/or corrosive.
(9) To authorize the reduction of the teflon PFA line r wall thickness from .100 + .100, = −.030 to .100 + .100, .059 lining the polyethylene portable tanks.
(10) To authorize use of a polyethylene salvage drum as a primary container for shipment of certain hazardous materials.
(11) To authorize shipment of those hazardous materials (solids) presently authorized in DOT Specification 21C drums as additional commodities subject to compatibility with polyethylene top head.
(12) Request deletion of requirement pertaining to delivery time during loading and unloading must not exceed 10 minutes and the fill hose must not contain product during transportation.
(13) To authorize cargo vessel, passenger carrying aircraft, cargo aircraft and rail freight as additional modes of transportation.

Application No.	Applicant	Parties to exemption
4453-P	Explo, Inc., Cuddy, PA	4453
4453-P	Ren-Loi, Inc., Cuddy, PA	4453
4453-P	Blasting Products, Inc., Cuddy, PA	4453
4453-P	H.L. & A.G. Balsinger, Inc., Cuddy, PA	4453
4453-P	Mountaineer Explosives, Inc., Cuddy, PA	4453
4850-P	Penwood Wireline, Inc./A Computalog Company, Houston, TX	4850
4850-P	Drilling Measurements Inc. (DMI), Broussard, LA	4850
7052-P	Dukane Corporation/Seacom Division, St. Charles, IL	7052
7052-P	VMS Consulting Engineers, Woodmere, NY	7052
7052-P	Environmental Pacific Corporation, Lake Oswego, OR	7052
7607-P	Groundwater Technology, Inc. Concord, CA	7607
7943-P	Freight Specialists/Div. of VANA Enterprises, Inc., La Verne, CA	7943
8426-P	Power Master Inc. (PMI), Fontana, CA	8426
8426-P	Ancon Environmental Services, Wilmington, CA	8426
8445-P	Merrell Dow Pharmaceuticals, Cincinnati, OH	8445
8518-P	Ancon Environmental Services, Wilmington, CA	8518
8723-P	Explo, Inc., Cuddy, PA	8723
8723-P	H.L. & A.G. Balsinger, Inc., Cuddy, PA	8723
8723-P	Mountaineer Explosives, Inc., Cuddy, PA	8723
8723-P	Ren-Loi, Inc., Cuddy, PA	8723
8723-P	Blasting Products, Inc., Cuddy, PA	8723
8779-P	Acme Resin Corporation, Westchester, IL	8779
8811-P	Hercules Incorporated, Wilmington, DE	8811
8811-P	Aqualon Company, Wilmington, DE	8811
8845-P	Drilling Measurements Inc. (DMI), Broussard, LA	8845
8988-P	Penwood Wireline, Inc./A Computalog Company, Houston, TX	8988
8988-P	Drilling Measurements Inc. (DMI), Broussard, LA	8988
9066-P	Rolls-Royce Motor Cars Inc., Lyndhurst, NJ	9066
9108-P	SNPE Inc., Princeton, NJ	9108
9222-P	Terra First, Inc., Vernon, AL	9222
9262-P	Penwood Wireline, Inc./A Computalog Company, Houston, TX	9262
9262-P	Drilling Measurements Inc., (DMI), Broussard, LA	9262
9549-P	Penwood Wireline, Inc./A Computalog Company, Houston, TX	9549
9571-P	GSX Services, Inc., Laurel, MD	9571
9723-P	SET Environmental, Inc., Wheeling, IL	9723
9769-P	CECOS International, Inc., Livingston, LA	9769
9769-P	Great Lakes Environmental Services, Inc., Warren, MI	9769
9785-P	Tropical Shipping and Construction Co., Ltd., Nassau, Bahamas	9785
9953-P	Jevic Transportation, Inc., Willingboro, NJ	9953
10086-P	Jaguar Cars Limited, Whitley, Coventry, EN	10086

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on June 9, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89-14231 Filed 6-14-89; 8:45 am]

BILLING CODE 4910-60-M

UNITED STATES INFORMATION AGENCY

Meeting of Advisory Board for Radio Broadcasting to Cuba

The Advisory Board for Radio Broadcasting to Cuba will conduct a meeting on June 21, 1989, in Room 3557 400 Sixth Street, SW., Washington, DC. Below is the intended agenda.

Wednesday, June 21, 1989

Part One—Closed to the Public

10:30 a.m. 1. Report by the Director of Radio Marti
11:15 a.m. 2. TV Marti
12:00 noon 3. Status of selection of executive director

Part Two—Open to the Public

12:15 p.m. 4. Audience Research
12:30 p.m. 5. Public testimony period

Items one through three, which will be discussed from 10:30 a.m. to 12:15 p.m., will be closed to the public. Items one and two involve discussion of classified information. Closing such deliberations to the public is justified under 5 U.S.C. 552b(c)(1). Item three relates solely to internal personnel rules and practices. Authority for closing such deliberations is provided by 5 U.S.C. 552b(c)(2).

Members of the public interested in attending the meeting should contact Kathy Litwak at (202) 485-7013 to make prior arrangements, as access to the building is controlled.

Dated: June 8, 1989.

Bruce S. Gelb,

Director.

Determination to Close Portions of Advisory Board Meeting of June 21, 1989

Based on information provided to me by the Advisory Board for Radio Broadcasting to Cuba, I hereby determine that the 10:30 a.m. to 12:15 p.m. portion of the meeting may be closed to the public.

The Advisory Board has requested that this part of the June 21, 1989 meeting be closed because it will involve a discussion of classified information (5 U.S.C. 552b(c)(1)) and of matters which relate solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)).

Bruce S. Gelb,

Director.

Dated: June 8, 1989.

[FR Doc. 89-14278 Filed 6-14-89; 8:45 am]

BILLING CODE 8230-01-M

Voice of America; Public Meeting Cancellation

Date for Public Meeting originally scheduled to be held on June 16, 1989 in Washington, DC at 301 4th Street, SW., Room 800 from 10:00 a.m. to 1:00 p.m.

AGENCY: Voice of America, United States Information Agency.

ACTION: Postponement of meeting until further notice.

SUMMARY: This notice cancels the June 16, 1989 meeting of USIA's Voice of America Broadcast Advisory Committee published in the **Federal Register**, May 30, 1989 (54 FR 23023) until further notice.

Dated: June 8, 1989.

Ledra L. Dildy,

Management Analyst, Federal Register Liaison.

[FR Doc. 89-14277 Filed 6-14-89; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 114
Thursday, June 15, 1989

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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 2:30 p.m., Tuesday, June 20, 1989.

PLACE: 2033 K Street NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 89–14394 Filed 6–13–89; 2:27 pm]

BILLING CODE 6351-01-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, June 20, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, June 22, 1989, 10:00 a.m.

PLACE: 999 E Street, NW Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Draft AO 1989–07:
  R.S. Petterson on behalf of New Jersey Bell Federal PAC
Draft AO 1989–09:
  W.H.L. Mullins on behalf of The General Cynamics Voluntary Political Contribution Plan
Regulations:
  Revision of 11 C.F.R. 114.8(f): Promulgation of Final Rule.
Final Audit Report:
  Haig for President
Status of Presidential Audits
Administrative Matters

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Information Officer, Telephone: 202–376–3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 89–14383 Filed 6–13–89; 2:05 pm]

BILLING CODE 6715-01-M

Corrections

Federal Register
Vol. 54, No. 114
Thursday, June 15, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amdt. No. 315]

Food Stamp Program; Disaster Assistance Act, Nondiscretionary Provisions of the Hunger Prevention Act, and Technical Corrections

Correction

In rule document 89-13294 beginning on page 24149 in the issue of Tuesday, June 6, 1989, make the following correction:

On page 24152 in the 1st column, in the 11th line, "not" should read, "now"

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis; Georgia-Alabama System of Projects

Correction

In notice document 89-13289 beginning on page 24026 in the issue of Monday, June 5, 1989, make the following correction:

On page 24029, in the first column, in the table, in the last line, "$-1.11" should read "$-.11"

BILLING CODE 1505-01-D

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708

Mergers of Federally-Insured Credit Unions: Voluntary Termination or Conversion of Insured Status

Correction

In proposed rule document 89-12216 beginning on page 21968 in the issue of Monday, May 22, 1989, make the following corrections:

On page 21969 in the third column, in the last paragraph, in the fourth line, "insurance" was misspelled and "not" should read "now"

BILLING CODE 1505-01-D

federal register

Thursday
June 15, 1989

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 129

Security Programs for Foreign Air Carriers; Security Measures Implemented by Government Authorities at Foreign Airports; Notice of Implementation Policy

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 129

Security Programs for Foreign Air Carriers; Security Measures Implemented by Government Authorities at Foreign Airports; Implementation Policy

ACTION: Notice of implementation policy.

SUMMARY: This notice sets forth an implementation policy regarding the final rule which requires foreign air carriers to submit and to use a security program acceptable to the Administrator. With respect to that portion of a proposed security program dealing with identified airports that are a last point of departure to the United States, a foreign air carrier may submit a proposed security program that either specifies the procedures implemented for its operations to the United States at those airports or refers the FAA to the appropriate government authorities that implement those procedures.

FOR FURTHER INFORMATION CONTACT: Irene Howie, (202)267-3515.

SUPPLEMENTARY INFORMATION: Part 129 of the Federal Aviation Regulations governs the operation of foreign air carriers that hold a permit issued by the Department of Transportation (DOT) under Section 402 of the Federal Aviation Act or that hold another appropriate economic or exemption authority issued by DOT. On March 13, 1989, the FAA issued a final rule (54 FR 11116; March 16, 1989) amending Section 129.25 to require foreign air carriers that land or take off in the United States to submit a written security program to the FAA that is acceptable to the Administrator. The rule applies to foreign air carrier operations at U.S. airports and at foreign airports that are a last point of departure prior to landing in the United States.

Questions have been raised about the implementation of the rule. Specifically, certain foreign governments have expressed concern about the FAA seeking security programs from foreign air carriers which would include the procedures at foreign airports where government authorities, not carriers, implement security measures. These governments believe that the more appropriate source of security programs for these operations is the responsible government agency. This issue was raised during international civil aviation security talks between the Secretary of Transportation and several of his European counterparts in April 1989. The same concern has been expressed by several governments in written communications to the Department of State and the Department of Transportation delivered after publication of the final rule.

The applicability of the final rule to foreign air carrier operations at foreign airports that are a last point of departure to the United States is necessary for the FAA to assure that foreign air carrier operations into U.S. territory are secure. The FAA continues to believe that the final rule is consistent with its statutory responsibilities and U.S. international obligations. The final rule is an exercise of authority recognized in the Convention on International Civil Aviation (Chicago Convention) and U.S. air transport agreements and is not intended to undermine the sovereignty of other nations.

The FAA has determined that the expressed concern can be accommodated in a manner consistent with the terms and intent of the final rule. A foreign carrier must submit a security program to the FAA that outlines its security procedures at U.S. airports and, with respect to its operations to the United States, at foreign airports that are a last point of departure to the United States. However, for operations at airports that are a last point of departure to the United States and where a government authority on the carrier's behalf performs certain security procedures, a foreign air carrier may refer the FAA to the government authority that performs those security procedures in its initial submission of a proposed security program. The FAA believes that referral to a government authority, thereby providing a mechanism by which the FAA can obtain the necessary information, is sufficient to meet the requirement to submit a proposed program to the FAA for review. The FAA then will look first to the named government authority to obtain the necessary information on which to review and determine acceptance of a foreign air carrier's proposed security program.

The FAA will act promptly to request the information from the named government authority within the time period provided in the rule for FAA review of the proposed security program since receipt of this information is a predicate to FAA's acceptance of a foreign air carrier's security program. Upon receipt of the information, which identifies the substantive security requirements applicable to operations from that airport, the FAA will consider the procedures to be part of the carrier's proposed security program. The FAA then will review the carrier's proposed security program, including the integrated material received from government authorities, to determine the acceptability of the carrier's security program. If the carrier chooses to refer the FAA to a government authority for information, instead of including those security procedures in its proposed program, the carrier should include the following information in its proposed program: (1) The name and location of each airport where a government authority implements security procedures; (2) a description of the aviation security functions performed for the carrier with respect to its operations to the United States by the government authority; and (3) the name and address of the government authority as well as the name of an individual from whom the FAA should request the information.

The FAA expects to work closely with foreign air carriers and civil aviation security authorities in other countries to ensure that security measures implemented by foreign air carriers for operations into, from, and within the United States are adequate to meet the threat against civil aviation.

Issued in Washington, DC on June 9, 1989.

Monte R. Belger,

Associate Administrator for Aviation Standards.

[FR Doc. 89-14172 Filed 6-9-89; 4:28 pm]

BILLING CODE 4910-13-M

federal register

Thursday
June 15, 1989

Part III

Office of Management and Budget

Second Advance Notice of Further Policy Development on Dissemination of Information

OFFICE OF MANAGEMENT AND BUDGET

Second Advance Notice of Further Policy Development on Dissemination of Information

June 9, 1989.

SUMMARY: The Office of Management and Budget (OMB) solicits further public comment in the development of policy concerning the dissemination of information by executive branch agencies. This notice summarizes public comments received to OMB's notice of January 4, 1989, regarding proposed changes to OMB Circular No. A-130, Management of Federal Information Resources; presents OMB reactions to the comments; states preliminary conclusions; and requests further comment. For the reasons indicated, the notice of January 4, 1989, is withdrawn.

DATE: Comments from the public should be submitted no later than August 14, 1989.

ADDRESS: Comments should be addressed to: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Room 3235 New Executive Office Building, Office of Management and Budget, Washington, DC 20503. Telephone: (202) 395-4814.

SUPPLEMENTARY INFORMATION: On January 4, 1989, the Office of Management and Budget (OMB) published for comment a notice (hereafter referred to as the January 1989 notice) entitled Advance Notice of Further Policy Development on Dissemination of Information (54 FR 214-220). OMB originally set the deadline for comments on the January 1989 notice as March 6, 1989. In response to many requests, OMB announced that the deadline was extended until April 10, 1989 (54 FR 12038, March 23, 1989).

OMB received 226 letters of comment on the January 1989 notice. Five percent of the letters were from Members of Congress; nine percent from Federal agencies; 10 percent from state and local government agencies; 66 percent from librarians; and 10 percent from private individuals or other nongovernmental organizations. The complete set of comments is available for inspection and copying in the docket reading room at the Office of Management and Budget, Room 3201 New Executive Office Building, 725 17th Street, NW., Washington, DC 20503. Persons desiring access to the comments may telephone (202) 395-6880 to arrange for entry to the building.

This second advance notice presents OMB's summary of comments on the January 1989 notice, OMB's reaction to the comments, and preliminary conclusions. The public is invited to comment further on the contents of this second advance notice.

Summary of Comments

General Comments

A majority of commentators expressed views concerning the overall contents and tone of OMB's January 1989 notice. The most common opinion was that the January 1989 notice and OMB Circular No. A-130 were heavily biased, concentrating so much on private sector prerogatives that OMB had failed to elaborate a positive role for Federal agencies in the dissemination of government information, even in situations where dissemination of such information was basic to agencies' missions. The most favorable comments on this general point concluded that a public/private sector sharing of responsibility for information dissemination is good public policy and good economics, but that the notice failed to capture any such positive theme.

Two other frequently expressed general comments were: that OMB should withdraw the January 1989 notice, lest Federal agencies begin to implement the notice as established policy; and that OMB should proceed no further with revisions to OMB Circular No. A-130 until Congress acted on the reauthorization of the Paperwork Reduction Act.

Another general comment was that the proposed policy, as well as OMB Circular No. A-130, is silent on the role of the States in information resources management policy. With respect to information dissemination policy, commentators noted that the States are both partners with the Federal Government in dissemination and a major users group for federally disseminated information.

OMB Reaction: OMB did not intend that either OMB Circular No. A-130 or the January 1989 notice should express bias in favor of private sector prerogatives in a manner that would denigrate the central role that Federal agencies' play in Federal information dissemination. Appendix IV of Circular A-130 analyzed generic and specific statutory requirements affecting agencies' information dissemination activities, as well as dissemination responsibilities arising from proper performance of agency functions as determined by heads of agencies. Because comments indicate that OMB's basic policy on these matters may not have been well communicated, OMB plans to review and revise the pertinent portions of OMB Circular No. A-130, namely Section 7 Basic Considerations and Assumptions, Section 8(a), Information Management, and corresponding sections of Appendix IV and also to reconsider fully the content and tone of the January 1989 notice (see below).

As to the comment that OMB should withdraw the January 1989 notice, the form of that notice was neither a final policy nor a proposed policy, but an advance notice of proposed policy. That is, the notice was two steps from final policy, and therefore did not constitute either a statement of policy or even necessarily a statement of intended policy. Because comments indicated that the notice gave rise to substantial concern and some confusion among the public, OMB herewith withdraws the advance notice published January 4, 1989.

Other comments indicate that the objection was not to OMB's formulating policy on electronic dissemination. Commentators desired some policy on the subject, especially to help address the increasingly complex issues posed by changing technology, but in the opinion of many, not policy as they understood it. The Paperwork Reduction Act directs OMB to develop and implement uniform and consistent information resources management policies, so that undertaking further work on information dissemination policy is a responsibility under OMB's statutory mandate. OMB is mindful of congressional and public interest in this subject. OMB intends to continue work on developing information dissemination policy consistent with its mandate.

With respect to the role of the States, OMB agrees that the January 1989 notice and OMB Circular A-130 do not adequately treat the role of the States. In revising the Circular and the notice, OMB intends to work with State organizations to ensure that the role of the States is appropriately articulated.

Comprehensiveness and Enforcement

The January 1989 notice asked two general questions:

—Are the policy and accompanying analysis sufficiently comprehensive? Are there other major topics pertaining to information dissemination that should be treated?

—Is the procedural guidance provided sufficient to ensure enforcement of the policies? More broadly, how should OMB ensure enforcement of the policies?

Regarding the first question, some commentators answered in the affirmative, stating that the notice was thoughtful and coherent. Some stated that the analysis was generally sound but that the notice had a negative tone. Many others complained that the notice did little to illuminate how terms such as "value-added," "unfair competition, and "adequate notice" should be defined and used.

As to other major topics, many commentators pointed to the omission of any treatment of the Federal depository library program. Some commentators wanted a fuller discussion of how differences in information format or media affected various policy statements. Others wished for renewed discussion of the concepts of information access and information dissemination.

Regarding the question on procedural guidance, most who answered said that the notice did not provide sufficient guidance. They believed that the notice was no better than Circular No. A-130 with respect to enforcement and that both documents may be generally unenforceable.

Of the few who offered specific comments on procedural guidance for enforcement, their views fell into two groups. One group of commentators believed that OMB should take an affirmative role in approving or disapproving agency information dissemination products and evaluating private sector products, and that OMB should approve or disapprove agency dissemination plans or at least arbitrate disputes over such plans.

The other group of commentators believed that, while it should not micromanage, OMB should act to strengthen agency efforts at enforcement. Their suggestions included requiring public appeal mechanisms, or even making the policy into a regulation so that the public might seek relief through judicial or administrative proceedings.

OMB Reaction: OMB agrees that additional topics must be considered, as this notice elsewhere indicates. As to enforcement, OMB disagrees with the view that OMB should take a more active role of reviewing and approving or disapproving agencies' information dissemination programs. As Circular No. A-130 establishes in Section 9a (1), the locus of responsibility for actual management of Federal information resources is the head of each agency. In revising information dissemination policy, OMB plans to strengthen the policy framework of agency enforcement responsibilities.

Incorporation of OMB Circular No. A-3

The January 1989 notice proposed first to incorporate OMB Circular No. A-3, Government Publications, into OMB Circular No. A-130. The notice introduced certain changes to definitions in Circular No. A-3, and specified some functions that agency publications control systems are to perform, but proposed to leave the remainder of the contents of Circular No. A-3 unchanged.

The most common view expressed concerning the treatment of Circular No. A-3 was objection to the proposed elimination of the exclusion of statistical periodicals from the reporting requirements of the Circular. Commentators argued that the very rationale for reporting is management control by persons outside the statistical agencies, and therefore the change would open Federal statistics to real or apparent tampering, both of which must be guarded against.

As to the desirability of incorporating Circular No. A-3 into Circular No. A-130, most comments dealt with the effects of incorporation rather than arguing for or against it. Two Federal agencies objected to incorporation, arguing that the separate identity and visibility of Circular No. A-3 are important to effective publications management within the agencies.

In different ways, a number of commentators noted that incorporating Circular No. A-3 with only minor changes in definitions, inclusions, exclusions, and process would introduce new terms and policy formulations that appear different from and inconsistent with those found in Circular No. A-130; and that as a consequence it was not possible to join the two Circulars without substantial revision and harmonization of the two.

Several commentators pointed out that 44 U.S.C. 1108, the legal basis of Circular No. A-3, refers only to periodicals, and stated that OMB was extending its jurisdiction to other information products, especially electronic ones, without a statutory foundation.

Other commentators, particularly Federal agencies, focused on the contents of Circular No. A-3, pointing out that under the Paperwork Reduction Act OMB exercises detailed control over information collections and that similar control over information dissemination, as provided in Circular No. A-3, was excessive and unnecessary.

Commentators also objected to the inclusion of internal agency newsletters under the definition of periodical, since such publications are not intended for public distribution.

Commentators questioned why OMB did not include, under the definition of information dissemination products, audiovisual activities, which are covered by OMB Circular No. A-114. With reference to this term, some commentators questioned OMB's statutory authority for extending the definition to cover electronic information products.

OMB Reaction: Following are OMB reactions to comments on incorporation of OMB Circular No. A-3.

—OMB agrees that Federal statistical publications must be protected from both actual and apparent tampering, and that therefore the exclusion of statistical publications from management control reporting should not be dropped but should be continued; that is, the policy in existing Circular No. A-3 should be retained.

—OMB believes Circular No. A-3, or any revision thereto, should be incorporated into Circular No. A-130. The reason is that a basic purpose of the Paperwork Reduction Act is to coordinate, integrate, and make uniform Federal information policies and practices. (44 U.S.C. 3501) OMB views the joining of the two Circulars as a step toward coordination and integration of Federal information policy, and believes that the Paperwork Reduction Act and other authorities cited in Section 3 of Circular No. A-130 are adequate legal foundation for extending coverage to include information products other than periodicals.

—OMB agrees that 44 U.S.C. 1108 refers only to periodicals and is not a statutory basis for requiring reporting on electronic information products. However, the Paperwork Reduction Act and other authorities cited in Section 3 of Circular No. A-130 are an adequate basis for requiring such reporting.

—OMB believes that Circular No. A-3 should be incorporated into Circular No. A-130 only after substantial revision to Circular No. A-3.

—OMB agrees that audiovisual activities may logically belong under the definition of "information dissemination product, a logic that would also dictate the joining of OMB Circular Nos. A-114 and A-130. However, because agencies experienced administrative difficulties in extending reporting coverage to include electronic information products, OMB is

inclined to defer until a later date the consideration of including audiovisual activities within the meaning of information dissemination product and joining the two Circulars.

—OMB believes any revision to the contents of Circular No. A-3 should reduce the exercise of OMB control over the details of agency information dissemination programs.

—OMB agrees that internal newsletters should not be included within the definition of the term periodical.

After further consideration, OMB proposes to take the following actions with respect to Circular No. A-3, actions which effectively incorporate suggestions made by commentators.

—Agencies will be required to maintain current comprehensive inventories of information dissemination products. However, the inventories will not be submitted to OMB and will not be individually examined on a routine basis by OMB. OMB plans to require that agencies annually submit their inventories to a single point, possibly the National Technical Information Service, for compilation and publication as a government-wide index for locating government information. OMB intends to establish an appropriate interagency group to determine the content of the inventory.

—OMB intends to reduce annual reporting to OMB to a single table of obligations data for agency information dissemination products (the equivalent of Exhibit 2 in OMB Bulletin No. 88-10, issued April 22, 1988) that would satisfy the requirements of 44 U.S.C. 1108. When submitting the table, agency heads will be required to certify that:

(a) The agency's information dissemination products are necessary for the proper performance of agency functions (to satisfy 44 U.S.C. 1108); and

(b) The agency has in place an effective management system for information dissemination products, including a current inventory.

—For FY 1989, OMB plans to issue a bulletin within the next 60 days detailing proposed changes to OMB Circular No. A-3 and requesting the single table and certifications. OMB intends to write to agencies in response to the FY 1989 bulletin, indicating whether their responses are in conformity with 44 U.S.C. 1108. For subsequent years, OMB plans to incorporate reporting into the annual budget process.

Adequate Notice

The January 1989 notice proposed requiring agencies: (1) To make determinations as to which of their information dissemination products are significant and what would constitute adequate notice for initiating or terminating such products; and (2) to establish procedures for providing adequate notice. The analysis of policy provided examples of significant products and forms of notice.

Relatively fewer comments were received on this section of the notice than on others, and many of those were from Federal agencies. In general, whether in support of or critical of the adequate notice concept, commentators suggested that OMB give more specific guidance both on definitions and process. Some commentators addressed themselves to issues of timeliness, suggesting precise timeframes for agency notices or requesting more specific guidance on timeframes for different kinds of products. Some pointed out that advance notice was often precluded by the fact that decisions to terminate information dissemination products arose directly from the annual budget process and that budget decisions may not be published in advance. A number challenged OMB's characterization of significant and nonsignificant products. Some pointed out, for example, that in a decision to terminate a product because of low public interest, as evidenced by diminished demand, agencies should also take into account the product's usage by the depository libraries.

OMB Reaction: OMB's intent in the January 1989 notice was to reinforce the concept of adequate notice by providing lengthy examples concerning adequate notice, but then to propose that agencies develop their own procedures in accord with their own circumstances.

OMB does not believe it should fix timeliness and other procedural issues more precisely, believing that these are matters better left to the agencies because the agencies are in the best position to take into account agency missions and the nature of the information dissemination products in question. OMB expects to require that agencies establish procedures consistent with general guidelines, but will leave detailed procedural specifications to the agencies.

OMB agrees that, in formulating procedures for adequate notice, agencies should take into account the fullest available information, such as depository library usage of information dissemination products. OMB recognizes that budget decisions may affect an agency's ability to provide adequate notice, and considers this a special condition that agencies may wish to list as an exception to their procedures.

Electronic Dissemination

The January 1989 notice proposed that agencies should examine their information dissemination products to determine whether conditions favor electronic dissemination, and suggested what some of the conditions might be. The notice also stated that agencies should avoid disseminating products that place the Government in unfair competition with the private sector, and that agencies should give preference to basic products and avoid disseminating value-added electronic information products.

This section of the notice generated the most comment. A majority of the commentators took this section as an assault on public policy principles concerning the free flow of information. First, commentators questioned whether the notice took into account the legitimate role of government agencies in the dissemination of government information and the rights of citizens to adequate and preferably convenient access to that information. According to some commentators, the policy as proposed, by impeding agency information dissemination activities, would constitute an obstacle to agencies in carrying out their dissemination mandates.

Second, commentators questioned the statutory basis for a proposed policy which they believed favored the privatization of government information dissemination products. Some voiced the belief that the proposed policy was in conflict with those portions of Title 44 governing Federal printing. They questioned a distinction between electronic information products and other government information products, many asserting that the chapters of Title 44 dealing with printing extend to electronic products and that OMB is wrong to suggest otherwise. (To the extent this last comment is a reference to the section of the January 1989 notice concerning user fees, see the section on user fees below.)

Third, commentators voiced their concerns about too great a reliance on the private sector for the dissemination of government information, particularly in electronic form. They noted the uncertainty of corporate continuity and the lack of accountability and obligation to perform as compared with Federal

agencies. They pointed to the risk that, if given too strong a role, private firms might exercise control over the content of public domain information, releasing only that information that would turn a profit. They objected to the possibility that private firms could exact high prices and high profits from the sale of information created with public funds. Commentators believed that the proposed policy could amount to a public subsidy for commercial interests and could effectively create price barriers to government information.

Fourth, commentators focused on the matter of unfair competition, with some alleging that the proposed policy should foster cooperation between the public and private sectors rather than competition, and others holding the view that competition between the two sectors was basically healthy.

Fifth, some commentators focused on the special case of Federal statistical agencies, arguing that these agencies reason for existence is to disseminate general purpose statistics and that the proposed policies fail to take account of, and could inhibit, their special missions.

Sixth, a paragraph in the analysis section of the notice presented an example dealing with CD-ROM (Compact Disk—Read Only Memory). This paragraph occasioned the most comment of any feature of the notice. Commentators took exception to the idea that an agency might disseminate a CD-ROM without any added value; that is, without tailoring it to specific user needs. They argued that such an action would be inconsistent with the purpose of information dissemination: some value must be added to any information to enable it to be used. Commentators also objected strenuously to the suggestion that software development is an inappropriate activity for agencies.

Seventh, some commentators on the other hand pointed to examples where they believed agencies were disseminating valueadded products in competition with the private sector. They expressed the fear that such agency actions would drive away private sector investment from, and ultimately stifle, emergent technologies.

Eighth, comments discussed the responsibility of the Federal Government to guarantee equitable access to government information and alleged that overdependence on the private sector would lead to higher prices for users which, in turn, would undermine equitable access and lead to formation of an information elite composed of those who can afford the higher prices. Several commentators raised the example of a particular agency's automated system. They stressed the positive effects on national competitiveness that the high quality, readily accessible information from the system would provide. They also expressed fears that OMB policy would prohibit the agency from allowing public access to the system except through private vendors that might offer only the profitable portions of the system's database at high cost to the public.

Ninth, commentators alleged that in the January 1989 notice OMB was proposing to differentiate policy for electronic information from policy for printed information. They maintained that the format or media of information should not dictate policy, but that one information policy should apply to all formats or media.

Last, many commentators criticized the proposed policy on electronic dissemination because there was no discussion of the Federal depository library program. Some also mentioned that the National Technical Information Service should be discussed. In their view, any electronic dissemination policy must include these two institutional vehicles for making government information available to the public.

OMB Reaction: First, OMB wishes to make clear that its fundamental philosophy is that government information is a public asset; that is, with the exception of national security matters and such other areas as may be prescribed by law, it is the obligation of government to make such information readily available to the public on equal terms to all citizens; that to the extent the flow of information from the government to the public can be enhanced by the participation of the private sector, such participation should be encouraged; and that participation by the private sector supplements but does not replace the obligations of government. These principles apply whatever the form, printed, electronic, or other in which the information has been collected or stored. OMB did not intend that either OMB Circular No. A-130 or the January 1989 notice should have the effect of dissuading agencies from carrying out activities they believe are necessary for the proper performance of agency functions. OMB will re-examine OMB Circular No. A-130 and the January 1989 notice to ensure that these points are adequately addressed.

Second, as regards the statutory basis, OMB's information resources management policy is based on the Paperwork Reduction Act and on other statutory authorities, as cited in Section 3 of OMB Circular No. A-130. An OMB Circular is unlike a regulation promulgated pursuant to the notice and comment requirements of the Administrative Procedure Act. A Circular does not confer rights or impose obligations on private individuals or organizations. Rather, an OMB Circular imposes binding Administration guidance on executive branch agencies as to how policies and statutes are to be implemented.

Third, as regards reliance on the private sector to disseminate government information, OMB did not intend, either in Circular No. A-130 or in the January 1989 notice, that Federal agencies or the public should be made to rely primarily on the private sector for the dissemination of government information.

Fourth, as regards unfair competition between the public and private sectors, OMB believes that discussions surrounding Circular No. A-130 and the January 1989 notice have polarized debate in ways that may obscure and impede important areas of cooperation between the public and private sectors. In revising the Circular and the notice, OMB will attempt to frame the policy in language that avoids polarization and fosters cooperation.

Fifth, OMB recognizes, as for example at 5 CFR 1320.7(o) and elsewhere, that Federal statistical agencies are special cases in some respects. OMB's intent is to formulate information policy that will apply to all executive branch agencies while taking into account the special circumstances of statistical agencies.

Sixth, as regards the CD-ROM example in the analysis section of the January 1989 notice, OMB agrees that the example was poorly drawn. OMB agrees that government information dissemination products should be tailored to users' needs, and that software development is often a legitimate Federal activity.

Seventh, OMB believes that, all other things being considered, agencies ought to act in a manner that will encourage rather than inhibit private sector investment in emergent technologies.

Eighth, OMB agrees with the view that the Government has a responsibility to guarantee equitable access to government information. As to the concern that overdependence on the private sector could result in higher prices for users, OMB notes the requirement in Circular No. A-130 that agencies shall disseminate information products "in a manner that ensures that members of the public whom the agency has an obligation to reach have a reasonable ability to acquire the information. (Section 8a (11)(b)) The discussion of this policy highlights the

need to avoid unreasonably high prices for information products.

Ninth, as noted, OMB agrees that a single information policy should apply to government information regardless of format or media.

Last, with respect to the Federal depository libraries and the National Technical Information Services (NTIS), OMB agrees that these are institutional vehicles whose availability should be considered by all government information dissemination programs. In redrafting the policy, OMB will discuss the depository libraries and NTIS. In prescribing the functions of agencies' information dissemination management systems, OMB would consider requiring that agencies ensure that the appropriate information products are made available to the depository libraries.

OMB notes that the depository library program is the administrative responsibility of the Government Printing Office, and therefore does not intend to propose policy for the depository library program as such. In revising OMB Circular No. A-130 and the January notice, OMB does intend to address the question of executive branch agencies' supplying government publications to the depository library program.

User Charges

The January 1989 notice suggested a change in user charges policy as compared with the existing policy found in OMB Circular No. A-25, User Charges. The change consisted of treating government information products as fundamentally different from other goods and services. OMB proposed a ceiling on charges for information products, asserting that, with relatively rare exception, user charges for government information products should never be set higher than a level sufficient to recover the costs of disseminating, not collecting the information. The proposed policy, therefore, would generally preclude user charges that might attempt to recover costs of collecting and processing the information, and would preclude using other standards such as the market value of the information.

For many commentators, it appeared that the term user charges and any discussion thereof connoted higher prices to the public. Some commentators objected to the discussion in the notice's analysis section of "full cost of dissemination," and asserted that application of full cost of dissemination will raise the prices paid by end users in the public. Other commentators raised the objection that user charges are a form of double taxation. The taxpayer, having paid via taxes for the government to create or collect the information, is said to be paying a second time when assessed a user charge. A third set of comments stated that decisions on whether to charge and how much to charge should be based on the nature of the information, circumstances surrounding the particular information product, and the agency's dissemination mission.

In the analysis of user charges, the notice had stated that decisions on pricing and sale of printed government documents were reserved to the Superintendent of Documents, and that therefore the executive branch agencies had discretion only in the setting of user charges for electronic information products. Some commentators took direct issue with this statement, alleging that the statement was incorrect as a matter of law. Other commentators took this statement to mean that OMB was asserting electronic information products were not subject to Chapter 19 of Title 44, U.S.Code, concerning the depository libraries. Still others believed that this statement signaled a bifurcation in information policy with one policy applying to printed information products and another policy applying to electronic products; commentators opposed any such split.

OMB Reaction: The intent of the user charges section of the notice was to propose an across-the-board ceiling on user charges for government information products, except in certain carefully defined cases. Far from raising prices, OMB intended to reassure the public that prices would not be raised above the costs of dissemination. In effect, agencies would be precluded from using information products as a profit center or budgeting mechanism. The public has generally not objected to paying a sales price for GPO publications; the user charge OMB contemplates for other government information products is comparable. Charging for reproduction and distribution of electronic information products, the usual basis for user charges for these products, is consistent with a cost-of-dissemination policy.

As to double taxation, OMB notes that user charges policy has a basis in statute (31 U.S.C. 9701), and the Congress has not viewed user charges as double taxation because they are applied when the recipient receives special benefits. With regard to basing user charges on the nature of the information, the product circumstances, and the agency's mission, OMB believes that this viewpoint is accommodated in the policy of balancing user charges against the need to ensure that products reach the public for whom they are intended.

OMB notes also that OMB Circular No. A-25, User Charges, makes explicit provision for the waiver of user charges when the cost of collecting the fees would be an unduly large part of receipts. The January notice indicated that agencies should balance the requirement for user charges against the need to ensure that information products reach certain members of the public, and that this could be a basis for reducing or eliminating the charges.

With respect to Chapter 17 of Title 44, U.S. Code, OMB asserted only that the Superintendent of Documents prices and sells printed government documents and that executive branch agencies may set prices for electronic information products. Executive branch agencies have priced and sold electronic information products for several decades without legal or policy challenge.

OMB made no statement and drew no firm conclusions as to whether or not Chapter 19 of Title 44, dealing with the depository libraries, applies to electronic information products. The definition of "government publication" in 44 U.S.C. 1901 is: "informational matter which is published as an individual document *" OMB does not understand that this definition on its face includes electronic data files, software, online information services, or the like. Section 1711 of Title 44, for example, requires the Superintendent of Documents "to prepare a catalog of Government publications which shall show the documents *printed* during the preceding month *" (emphasis added). This statutory language supports OMB's exclusion of non-printed electronic information from the definition of government publication. Therefore, OMB believes it is not clear that agencies at present have a legal obligation to make electronic information products available to depository libraries. Nevertheless, OMB believes that, as a matter of policy, many such products should be made available to the depository libraries in the same manner as printed materials, and intends to redraft the proposed policy to reflect this view.

Immediate Action and Preliminary Conclusions About the Next Steps

OMB will proceed with the development of a new draft policy statement that will reformulate both information collection and information dissemination policy, including the pertinent sections of OMB Circular No.

A-130, the January 1989 notice, and the notice of August 7 1987 concerning electronic collection of information. OMB in due course will publish the new draft policy statement for comment.

The foregoing summary of comments leads OMB to certain preliminary conclusions about the proper role for executive branch agencies in government information dissemination, and the boundaries between Federal and nonfederal roles. OMB proposes that these conclusions form the basis for OMB's revision of information dissemination policy in OMB Circular No. A-130.

1. The nation benefits from the fact that government information is disseminated by Federal agencies and also by many nonfederal parties, including State and local government agencies, educational and other nonprofit institutions, and for-profit organizations.

2. Over and above their responsibilities to provide access to information under the Freedom of Information Act, the Privacy Act, and the Government in the Sunshine Act, Federal agencies have a general responsibility to disseminate information:

—As appropriate to the pursuit of their mission and program objectives; and
—In the interest of assuring that the public is appropriately informed.

3. Agencies must discharge their information dissemination responsibilities in a manner that:

—Assures the public reasonable and equitable access to government information; and
—Is efficient and economical.

4. Agencies should discharge their information dissemination responsibilities by taking full advantage of all dissemination channels, foremost among which are the Federal depository libraries, but also including other Federal agencies, State and local government agencies, educational and other nonprofit institutions, and for-profit organizations.

5. With respect to the roles of Federal and nonfederal entities, agency dissemination responsibilities can be analyzed as a set of decisions:

—Whether to disseminate a particular government information product or service: a decision made by the Federal agency involved;
—What to disseminate, i.e., the content of a government information product or service: a decision made by the Federal agency;
—When to disseminate, i.e., the timing and frequency of a product or service: a decision made by the Federal agency;
—How to disseminate, i.e., the strategy for getting a product or service to users, including format or medium: a decision made by the Federal agency;
—What price to charge for the product or service: a decision made by the Federal agency;
—Who carries out the primary or official dissemination activities, after the preceding questions are answered: a decision made by the Federal agency, which may result in activities by the Federal agency or by nonfederal parties;
—Who carries out secondary dissemination, once primary or official dissemination has been accomplished: a decision made by any interested party, Federal or nonfederal.

OMB requests public comment on the foregoing, particularly with respect to OMB's reaction to comments and preliminary conclusions. OMB also solicits positive formulations of policy statements with respect to the topics treated herein; that is, where members of the public believe the OMB formulation is inadequate or incomplete, OMB invites members of the public to offer their own formulations. OMB invites comments as to whether it would be useful for OMB to hold a public hearing on these issues.

S. Jay Plager,

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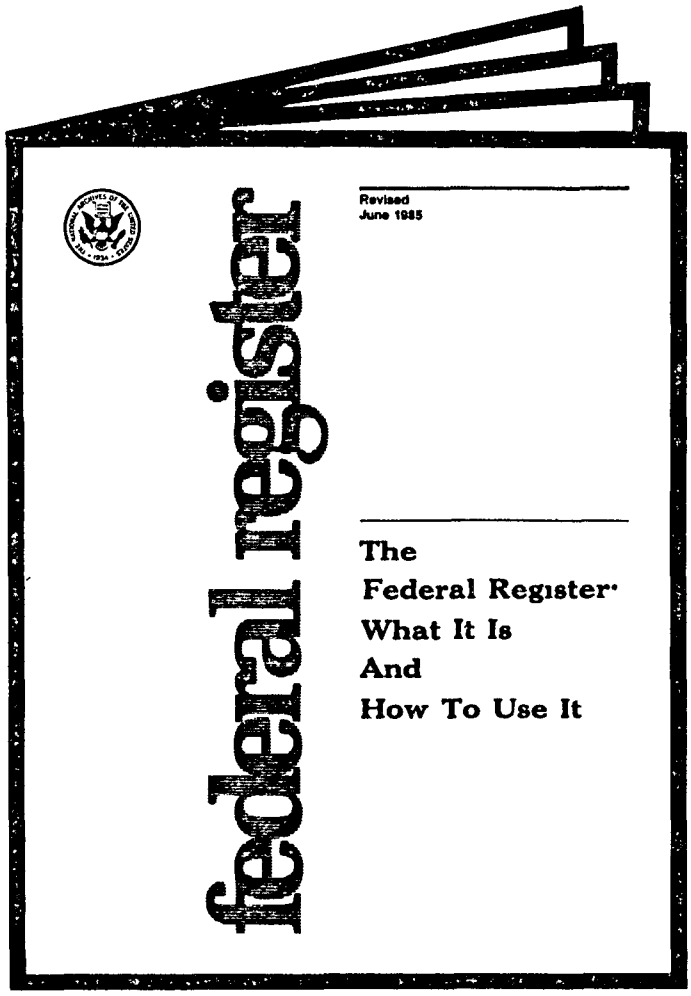

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