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Rules and Regulations

Federal Register

Vol. 52, No. 188

Tuesday, September 29, 1987

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 843

Federal Employees Retirement System; Death Benefits and Employee Refunds

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is revising (1) the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities and (2) the annuity factor for spouses of deceased employees who die in service when those spouses elect to receive the basic employee death benefit in 36 installments under the Federal Employees Retirement System (FERS) Act of 1986. These rules are necessary to conform the tables to the previously published economic assumptions approved by the Board of Actuaries.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 632-5560.

SUPPLEMENTARY INFORMATION: On June 18, 1987, OPM published (52 FR 23222) a notice in the *Federal Register* to revise the normal costs percentages under the FERS Act of 1986, Pub. L. 99-335, based on changed economic assumptions. Those changed economic assumptions (principally the change in expected investment return from 6.5% to 7.0%) require corresponding changes in factors used to produce actuarially equivalent benefits when required by the FERS Act.

Section 843.309 of Title 5, Code of Federal Regulations, regulates the payment of the basic employee death benefit. Under section 8442(b) of Title 5,

United States Code, the basic employee death benefit may be paid as a lump sum or as an equivalent benefit in 36 installments. These rules amend § 843.309(b)(2) of Title 5, Code of Federal Regulations, to conform the factor used to convert the lump sum to 36-installment payments with the revised economic assumptions.

Section 843.311 of Title 5, Code of Federal Regulations, regulates the benefits for the survivors of separated employees under section 8442(c) of Title 5, United States Code. This section provides a choice of benefits for eligible current and former spouses. If the current or former spouse is the person entitled to the unexpended balance under the order of precedence in section 8424 of Title 5, United States Code, he or she may elect to receive the unexpended balance instead of an annuity. Alternatively, an eligible current or former spouse may elect to receive an annuity commencing on the day after the employee's death or on the deceased separated employee's 62nd birthday. If the annuity commences on the deceased separated employee's 62nd birthday, it equals 50 percent of the annuity that the separated employee would have received when he or she attained age 62. If the current or former spouse elects the earlier commencing date, the annuity is reduced using the factors in Appendix A to Subpart C of Part 843 to make the annuity actuarially equivalent to the annuity that he or she would have received if it commenced on the retiree's 62nd birthday. These rules amend that appendix to conform with the revised economic assumptions.

Under section 553 (b)(3)(B) and (d)(3) of Title 5, United States Code, I find that good reason exists for waiving the general notice of proposed rulemaking and for making these amendments effective in less than 30 days. These rules are required by changes in economic assumptions that have already been published. Providing a comment period on the result of mathematical computations resulting from the changed economic assumptions is unnecessary, and to the extent that it would delay benefit payments is contrary to the public interest.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect retirement payments to retired Government employees, spouses, and former spouses.

List of Subjects in 5 CFR Part 843

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

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM is amending 5 CFR Part 843 as follows:

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

1. The authority citation for Part 843 continues to read as follows:

Authority: 5 U.S.C. 8461; Sections 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; Section 843.309 also issued under 5 U.S.C. 8442; Section 843.406 also issued under 5 U.S.C. 8441.

2. In § 843.309, paragraph (b)(2) is revised to read as follows:

§ 843.309 Basic employee death benefit.

* * * * *

(b) * * *

(2)(i) For deaths occurring before October 1, 1987, 36 equal monthly installments of 3.05642 percent of the amount of the basic employee death benefit.

(ii) For deaths occurring on or after October 1, 1987, 36 equal monthly installments of 3.06921 percent of the amount of the basic employee death benefit.

3. Appendix A to Subpart C is revised to read as follows:

Appendix A to Subpart C of Part 843— Present Value Conversion Factors for Earlier Commencing Date of Annuities of Current and Former Spouses of Deceased Separated Employees

With at least 10, but less than 20 years of creditable service—

Age of separated employee at birthday before death	Multiplier
26	0.0280
27	.0309
28	.0340
29	.0375
30	.0413
31	.0454
32	.0500
33	.0550
34	.0605
35	.0665
36	.0731
37	.0804
38	.0884
39	.0973
40	.1071
41	.1179
42	.1298
43	.1430
44	.1577
45	.1739
46	.1920
47	.2121
48	.2346
49	.2597
50	.2878
51	.3193
52	.3544
53	.3934
54	.4365
55	.4842
56	.5367
57	.5948
58	.6591
59	.7305
60	.8103
61	.8996

With at least 20, but less than 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
36	0.0901
37	.0991
38	.1090
39	.1199
40	.1319
41	.1452
42	.1600
43	.1762
44	.1943
45	.2144
46	.2367
47	.2615
48	.2892
49	.3202
50	.3548
51	.3936
52	.4369
53	.4851
54	.5383
55	.5971
56	.6620
57	.7337
58	.8131
59	.9015

With at least 30 years of creditable service—

Age of separated employee at birthday before death	Multipliers by separated employee's year of birth		
	After 1964	From 1949 to 1964	Before 1949
46	0.3224	0.3573	0.3962
47	.3562	.3948	.4378
48	.3940	.4367	.4842
49	.4362	.4835	.5361
50	.4835	.5359	.5942
51	.5363	.5945	.6592
52	.5954	.6599	.7317
53	.6610	.7327	.8124
54	.7336	.8132	.9017
55	.8139	.9021	.0000

Age of separated employee at birthday before death	Multipliers by separated employee's year of birth		
	After 1964	From 1949 to 1964	Before 1949
56	.9023		

[FR Doc. 87-22369 Filed 9-28-87; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273 and 277

[Amendment No. 298]

Food Stamp Program; Provisions of the Stewart B. McKinney Homeless Assistance Act and the Provision on the Treatment of Third-Party Payments From the Food Security Act of 1985

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule and correction.

SUMMARY: This action amends Food Stamp Program (FSP) regulations to address all the FSP provisions contained in Pub. L. 100-77, the Stewart B. McKinney Homeless Assistance Act enacted July 22, 1987. The majority of the provisions are intended to help homeless individuals obtain Food Stamp Program eligibility and benefits. The provisions of Pub. L. 100-77 included in this action affect the areas of Program informational activities, definitions, household concept, expedited service, excess shelter expense deduction amounts for October 1987, annual adjustments to the standard and shelter deductions, annual adjustments to the income eligibility limits, and the calculation of claims. This action also addresses a provision contained in Pub. L. 99-198, the Food Security Act of 1985 relative to the treatment of third-party payments made on behalf of food stamp households. The 1985 provision was amended by the Stewart B. McKinney Homeless Assistance Act. Thus, both legislative provisions are addressed in this action. In addition, this action corrects a regulatory cite in Part 277.

DATES: The provisions of this action are effective, and must be implemented, as follows: the definition of "General assistance" in § 271.2, § 273.9(b)(2)(i), new § 273.9(c)(1)(ii)(A), § 273.9(c)(1)(ii)(B), § 273.9(c)(1)(ii)(C), and § 273.9(c)(1)(iv)(B) are effective retroactively to April 1, 1987; § 271.2 the removal of the definition of "Homeless food stamp household" and addition of the definition of "Homeless individual"

in § 271.2 is effective retroactively to July 22, 1987; § 273.1(a)(2)(i)(C), § 273.1(a)(2)(i)(D), § 273.10(f)(2), § 273.9(d)(7)(i), and first, second, and third sentences of § 273.9(d)(8)(i) are effective October 1, 1987; § 273.9(c)(1)(ii)(D) is effective for the period beginning October 20, 1987 and ending September 30, 1989; § 273.2(i) is effective December 1, 1987; § 273.9(a)(3) is effective July 1, 1988; the last sentence of § 273.9(d)(8)(i) is effective October 1, 1988; § 272.5 is effective retroactively to July 22, 1987; § 273.18 is effective retroactively to September 5, 1987. Section 272.1(g)(93) and the technical amendments to Part 277 are effective September 29, 1987. Comments must be received on or before December 28, 1987 to be assured of consideration.

ADDRESSES: Comments should be submitted to Bruce Clutter, Eligibility and Monitoring Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. All written comments shall be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to Judith M. Seymour, Supervisor, Certification Rulemaking Section at the above address or by telephone at (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The Department has classified this action as nonmajor. This action will not have a significant effect on the economy. This action will have little, if any, effect on cost or prices. Competition, employment, investment, productivity, and innovation will remain unaffected. There will be no effect on the competition of United States-based enterprises with foreign-based enterprises.

Executive Order 12372

The Food Stamp Program is listed in the catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule and related Notice to 7 CFR 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive

Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). Anna Kondratas, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities. State welfare agencies are affected to the extent that they must implement the provisions described in this action. Some potentially eligible households will become aware of the availability of the Program. Some currently ineligible households will become eligible for Program benefits. Some currently participating households will realize an increase in Program benefits.

Interim Rule

The provisions of this rulemaking which implement Pub. L. 100-77, are required to be effective on the specific dates mandated for each provision in accordance with the statute. The provisions of this rulemaking which implement Pub. L. 99-198, are specifically required by section 1508(2) of that statute to be effective not later than April 1, 1987. Since prior notice and comment rulemaking procedures cannot be completed before the statutory effective dates for the majority of the provisions contained in this action, Anna Kondratas, Administrator of the Food and Nutrition Service, has determined, pursuant to 5 U.S.C. 553, that public comment on this rulemaking prior to implementation is impracticable. For the same reason, good cause is found pursuant to 5 U.S.C. 553(d) for the publication of this rulemaking less than thirty days prior to the effective dates for some of the provisions. In addition, a number of the provisions in this rulemaking, including the expedited service provision, § 273.2(i), are interpretive rules. However, because the Department believes that the administration of the rule may be improved by public comment, comments are solicited on this rule for 90 days. All comments will be analyzed and any appropriate changes to the rule will be incorporated in the subsequent publication of a final rule.

Paperwork Reduction Act

Information collection requirements associated with the Food Stamp Program application form are approved under OMB No. 0584-0064. Changes required to be made to the application

as a result of the provision in § 273.2(i) of this action do not significantly alter the methodologies used to determine the burden estimates currently approved for the application under OMB No. 0584-0064.

Background

Program Information for the Homeless—Section 272.5 and Part 277

Section 808 of Pub. L. 100-77 amends section 11(e) of the Food Stamp Act to allow State agencies the option of carrying out Program informational activities directed toward homeless individuals. The statute also amends section 16(e) of the Food Stamp Act to provide for Federal funding of one-half the cost of such activities. Use of this option is intended to ensure that the homeless are aware of their potential eligibility for food stamp benefits.

Under the Food Stamp Act, State agencies were required to conduct outreach activities to encourage persons who were potentially eligible for food stamps to apply for them. Legislation enacted in 1981 prohibited the Department from reimbursing State agencies for outreach activities. However, State agencies still had the option to conduct outreach activities provided they used their own funds. State agencies may have continued to conduct outreach activities using their own funds.

These regulations allow State agencies, at their option, to carry out Program informational activities for the homeless in the Food Stamp Program. The regulations also exclude the costs of these activities from nonreimbursable outreach costs. The rule clarifies that the Department will only reimburse State agencies that choose to implement this provision for the cost of Program informational activities aimed specifically at the homeless. Costs of Program informational activities designed to inform the general public about the availability of the Program will not be reimbursed, even though the homeless would be included in that population. The rules do not impose specific standards for providing Program information to the homeless because the Department believes that State agencies are in the best position to determine how to reach the homeless. Thus, the regulations give State agencies maximum flexibility to implement the provision. State agencies may wish to focus their efforts in this area on shelters for the homeless, soup kitchens, emergency feeding facilities, and the like.

The Department is also taking this opportunity to make a technical

amendment to current rules. A reference to § 272.6 contained in 7 CFR 277, Appendix A, paragraph C(14) is being changed to a reference to § 272.5. Section 272.6 was redesignated as § 272.5 by a previous rule and is hereby corrected.

Expedited Service—Section 273.2(i)

Section 809 of Pub. L. 100-77 amends section 11(e)(9) of the Food Stamp Act to include two more types of households that would be entitled to receive benefits under the Food Stamp Program's expedited service procedures.

Current regulations at 7 CFR 273.2(i) provide for expedited service to migrant and seasonal farm workers who are destitute and households with less than \$150 in monthly gross income. Both of these types of households must also have liquid resources of \$100 or less to qualify for expedited service. The Food Stamp Act requires that State agencies provide such households with coupons not later than five calendar days following the household's date of application.

Pub. L. 100-77 requires that benefits also be provided not later than five days following a household's date of application for eligible households in which all members are homeless individuals and eligible households whose combined gross income and liquid resources are less than the household's monthly rent or mortgage and utilities. Legislative history clarifies that this provision is intended to apply only to those households that otherwise meet food stamp eligibility standards, including rules governing household composition and the eligibility of those in institutions. (H.R. Rep. No. 100-174, 100th Cong., 1st Sess. 104 (1987)). Accordingly, this action amends 7 CFR 273.2(i) to provide that expedited service shall be available to eligible homeless households and households whose monthly gross income and liquid resources are less than their monthly rent or mortgage, and utilities costs.

Definitions—Section 271.2

Current regulations at 7 CFR 271.2 define a "homeless food stamp household" as an eligible food stamp household which does not have a fixed mailing address or does not reside in a permanent dwelling. This definition was adopted for Program purposes by regulations published March 11, 1987 for implementing the Homeless Eligibility Clarification Act (1986). With enactment of Pub. L. 100-77, this definition is no longer necessary. Section 801 of Pub. L. 100-77 amends section 3 of the Food Stamp Act to establish a statutory

definition of "homeless individual". The statute defines a homeless individual as an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is: (1) A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter); (2) a halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized; (3) a temporary accommodation in the residence of another individual; or (4) a place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places). This action amends 7 CFR 271.2 to remove the current definition of homeless food stamp household and add the statutory definition of homeless individual. This definition is generally consistent with the current definition of homeless food stamp household and with Congressional intent surrounding enactment of the Homeless Eligibility Clarification Act.

Individuals Living with Parents/Siblings—Sections 273.1(a) and 273.10(f)

Prior to the passage of Pub. L. 100-77, the Food Stamp Act provided that parents and children living together and siblings living together shall be considered as one household for Food Stamp Program purposes, unless at least one of the parents/siblings is elderly or disabled.

Section 802 of Pub. L. 100-77 amends section 3 of the Food Stamp Act to allow a parent, with his/her minor children, to live together with the parent's sibling and yet be considered a separate household if the parent with minor children purchases food and prepares meals separately from the parent's sibling. The statute also allows three generations living together to form two separate households if the parent with minor children purchases and prepares meals separately from the children's grandparent(s). Accordingly, this action amends 7 CFR 273.1(a) to provide that an individual who is the parent of minor children, along with that individual's children and spouse, may be granted separate household status if the individual and that individual's children are living with the individual's parent or sibling and purchasing and preparing meals separate from the parent/sibling. It is the Department's intent that current policy be applied to this provision when determining who constitutes a minor child. Current policy has traditionally considered children under 18 years of age who are under the parental control

of an adult household member to be minors.

Additionally, this action amends 7 CFR 273.10(f) to provide that such households shall be assigned a certification period that shall not exceed six months. Section 802 of Pub. L. 100-77 specifically provides that such households be subject to reexamination at least once every six months.

Income Eligibility Limit Updates—Section 273.9(a)(3)

The eligibility of households for the Food Stamp Program, except those in which all members are receiving public assistance (PA) or supplemental security income (SSI) benefits, is determined by comparing their incomes to the appropriate income eligibility limits. Households containing an elderly or disabled member only need to have net incomes below the net income limit. Households which do not contain an elderly or disabled member must have net incomes below the net income limits and gross incomes below the gross income limits. Households in which all members are receiving PA or SSI benefits are categorically eligible and do not have to meet the income limits.

The gross and net income limits are derived from the Federal income poverty guidelines. The gross income limit is 130 percent of the guidelines; the net income limit is 100 percent of the guidelines. The guidelines are updated annually. Based on that update, the Food Stamp Program's income eligibility limits are updated annually.

Currently, the updates of the Food Stamp Program's income eligibility limits are effective July 1 each year. This schedule was changed by section 803 of Pub. L. 100-77. Beginning with the 1988 update, the change in the income eligibility limits will be effective each October 1. The update effective on July 1, 1987, will remain in effect until October 1, 1988. Accordingly, this action amends 7 CFR 273.9(a)(3) to reflect that the Program's income eligibility limits for Fiscal Year 1989 and each subsequent year will be updated each October 1.

Third-party Payments—Section 273.9(c)(1)

Congress passed legislation on December 23, 1986 (Pub. L. 99-198) which contained a provision governing the treatment of public assistance (PA) and general assistance (GA) vendor payments as income. Before the Department promulgated regulations to implement this provision, the provision was further amended by Pub. L. 100-7. Pub. L. 100-77 contains a provision which supercedes, for a limited time, a

portion of the vendor payment policies based on the provisions of Pub. L. 99-198 which are implemented by this rulemaking. The following preamble discussion will first address the provisions of Pub. L. 99-198 and related policy determinations by the Department. Then the preamble will address the effect of the provisions of Pub. L. 100-77 which are being implemented.

Public Law 99-198

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) excludes from the definition of income any gain or benefit which is not in the form of money payable directly to a household. The legislative history accompanying this provision clarified that any money payable to a household, but diverted to a third party (vendor payments) either of the household's own free will or involuntarily would be counted as income and would not be excluded. House Report No. 95-464, 95th Cong., 1st Sess., June 24, 1977, page 34. Based on this legislative history and notice and comment rulemaking in 1978, the Program's regulations at 7 CFR 273.9(c)(1)(iii) provide that money obligated or otherwise payable to the household, but diverted to a third party, shall be considered income and not excluded as a vendor payment. For more details see preamble discussions at 43 FR 18888, 47865 and 47904 (1978).

Longstanding Department regulatory policy is that public assistance (PA) and most general assistance (GA) vendor payments provided by State and local governments fall under this provision because the payments are provided from funds that otherwise would be payable to the household. However, for GA vendor payments this policy has been challenged in court suits. Some States, localities and households have argued that some GA payments should be excluded from income even where they are otherwise payable to the household. Partially in response to that litigation, "the Senate Committee has included a new statutory provision to help assure that the Federal Government's position is upheld and Congressional intent is served." S. Rept. 145, 99th Cong., 1st Sess., pg. 234; reprinted at 1985 U.S. Code Cong. & Ad. News, 1900. This new provision, section 1508(2) the Food Security Act of 1985, Pub. L. 99-198, amended section (5) of the Food Stamp Act to specifically provide that assistance payable for living expenses by PA or State or local GA programs, or other basic assistance programs comparable to GA as determined by the Secretary, shall be, with certain

exceptions, considered income to the household if diverted to a third party on behalf of the household. See Senate Report 99-145, 99th Cong., 1st Sess., page 234; reprinted at 1985 U.S. Code Cong. & Ad. News 1899-1900. That Senate Report notes that this provision "will reinforce Congress' historical intent that payments from governmental assistance programs be included as income regardless of their form * * *." Id. This action amends 7 CFR 273.9(c) to specifically state that PA and State and local GA grants or benefits issued in the form of vendor payments are income and not excluded as a vendor payment, except under certain specified conditions.

As provided by the statute, the Secretary must determine which State and local basic assistance programs are comparable to a GA program. It is the Department's opinion that any State or local program which provides assistance on a regular or on an as needed basis to meet a household need which would safeguard health or improve personal well-being is a program consistent with the characteristics of most State and local GA programs. For example, the State or local program may provide the household with a check or voucher to present to a store to deal with a wide variety of needs such as food, furniture and clothing. These types of programs are, in the Department's opinion, providing assistance to meet household needs that would safeguard health or improve well-being.

Accordingly, this action amends the definition of "general assistance" at 7 CFR 272.2 to provide that general assistance means assistance financed by State or local funds and provided through a program intended to cover living expenses or other basic household needs which would safeguard health or improve well-being. A program which provides only in-kind assistance (i.e.; gives the recipient food, rather than a vendor payment), would continue to be excluded under the definition. Any State or local program which meets the amended definition would be considered to be a GA program for FSP purposes and the assistance would be considered income, even if provided in the form of a vendor payment.

The Department believes that implementing the statutory provision through a redefinition of general assistance is administratively more feasible than identifying various State or local programs by name or some other special characteristic. The characteristics of the definition would encompass a State or local GA program and those programs which the

Department considers to be comparable to GA, but are not so named by the State or local government. The Department believes that the definition of general assistance implements the statutory reaffirmation of Department rules and meets the intent of Congress "that payments from government assistance programs be included as income * * *" and to "ensure equity between groups of individuals who receive assistance in varying forms." See Senate Report 99-145 as cited above.

Additionally, some States and localities which disburse payments in the form of two-party checks or vouchers have challenged that the assistance is not "general assistance" as defined at 7 CFR 271.2 which currently implies that general assistance means "cash assistance" financed by State and local funds. Legislative history accompanying Pub. L. 99-198 clarifies that general assistance is provided in many different names and in different forms but that "none of these distinctions would matter, since any governmental payments made to the provider of goods or services on behalf of a household (in lieu of payment made directly to a household) would be included as income unless specifically excluded by regulation under 7 U.S.C. 2014(k)(2)(E) * * *." S. Rept. 99-145, Id. The Department has the discretion to determine whether payments, by whatever name, are for living expenses, and, in effect, part of a regular program of aid and thus subject to treatment as income under the provision. See Senate Report 99-145 as cited above. Therefore, this action further amends the definition of general assistance at 7 CFR 271.2 to include cash assistance and other forms of assistance financed by State or local funds.

Section 5 of the Food Stamp Act, as amended by section 1508(2) of Pub. L. 99-198, provides that medical, child care and energy assistance, and assistance provided by State or local housing authorities are excluded from the provision. The legislative history accompanying Pub. L. 99-198 clarifies that " * * * as specified in current regulations, medical, energy and child care assistance would not be included as income" under this provision. Senate Report 99-145, at 233; reprinted at 1985 U.S. Code Cong. & Ad. News 1899-1900. The reference to an exclusion for assistance provided by State and local housing authorities was added to the statute during Congressional Conference and it is assumed that this additional exclusion was also intended to exclude such assistance in the same manner as it

is currently excluded. See House Conf. Rept. 99-447, 99th Cong., 1st Sess., p. 523; reprinted at 1985 U.S. Code Cong. & Ad. News 2449. Current rules at 7 CFR 273.9(c)(1) already contain a provision that address the exclusion from income of assistance from State and local housing authorities as vendor payments. This action amends 7 CFR 273.9(c)(1) to add a specific income exclusion provision for public assistance and general assistance vendor payments for medical, child care or energy assistance. Current rules at 7 CFR 273.9(c)(11) define energy assistance for the purpose of providing an income exclusion for cash energy assistance. The rule clarifies that the same definition of energy assistance is applicable for the purpose of providing an income exclusion of a PA or GA vendor payment for energy assistance. The Department does not believe it necessary to further define medical or child care assistance for this income exclusion provision.

Pub. L. 99-198 also provides a specific exclusion for State or local emergency or special assistance vendor payments, as determined by the Secretary. Current rules at 7 CFR 273.9(c)(1)(iii)(B) allow an exclusion for such assistance in that payments are excluded to the extent that the payment is not normally provided as part of a PA grant and is provided over and above the normal PA grant even if it is otherwise payable to the household.

The Department intends to continue to use the general policy that excluded assistance cannot be part of the normal PA grant and must be provided over and above the normal PA grant to be considered "emergency" or "special" assistance" and expands this policy to include GA. Accordingly, this action amends 7 CFR 273.9(c)(iii)(B) to allow an income exclusion for any State or local assistance payments that would not normally be provided as part of the normal PA or GA grant or benefit and that are provided over and above the normal PA or GA grant or benefit, where such payments are made to a third party on behalf of the household for a household expense.

There has been some confusion as to what is considered to be "part of the normal PA grant and over and above the normal PA grant." The Department is taking this opportunity to clarify this policy. By way of explanation, most PA and GA grants are composed of various needs-based components or standards for such expenses as, but not limited to, shelter, transportation, food and clothing for categories of persons in need of or eligible for such aid. A

maximum payment amount and/or rate of payment is established for each component. To the extent that State or local assistance is not included as a regular component of a PA or GA grant or benefit or to the extent that the amount exceeds the maximum rate of payment established for the relevant component, the assistance would be considered over and above the normal grant and not part of the grant. For example, if this same PA or GA program provides all persons with school age children a monthly "extra" children's clothing allowance, and this was paid through a vendor payment directly to a clothing store, that allowance would not be excluded under this provision because it is part of the regular monthly assistance for all households in that category and is not really an "extra" payment. On the other hand, if a fire destroyed the household's clothing and it receives an "emergency" amount paid to a clothing store, that amount could be excluded under the provision. Where the program is not composed of various standards or components, but is simply designed to provide assistance on an as needed basis for the particular household need in question, it is the Department's view that such assistance is not provided over and above the normal grant. For example, if the program provides the household with a food voucher to present to a store, the value of the voucher is not excluded as emergency or special assistance under this provision because it is not over and above the normal grant, it is the normal grant. These examples have been incorporated into the regulations at 7 CFR 273.9(c)(1)(iii)(B) for clarification of the provision. Please note that 7 CFR 273.9(c)(1)(iii)(B) is redesignated by this action as 7 CFR 273.9(c)(1)(iv)(B).

This clarified policy establishes the framework for considering certain vendor payments as "emergency" or "special". However, FNS has reviewed various State and local vendor payment assistance programs and believes that it would be difficult to establish rules to cover all situations that might arise in the nation. Thus, this action also amends 7 CFR 273.9(c)(iii)(B) to provide that if it is not clear that certain PA or GA vendor payments established for dealing with emergency and special situations are excluded under the general policy, the State agency must apply to FNS for an exclusion determination. Under the rule, State agencies would apply to the appropriate FNS regional office. The State would have to precisely explain the nature of the vendor payment, the type of assistance it provides, who is eligible to

receive the assistance, how the State or local government makes the payment and how the vendor payment fits into the overall public assistance or general assistance scheme. A copy of the rules, ordinances or statutes which create and authorize the program should accompany the application for the exclusion. Once FNS has gained more experience in this area it is possible that other more specific rules may be published.

Public Law 100-77

Based on current regulations at 7 CFR 273.9(c)(1), a PA or GA housing assistance payment made to a third party on behalf of a household residing in temporary housing facilities for the homeless can only be partially excluded from income as emergency or special assistance. (See 7 CFR 273.9(c)(1)(iii)(B)) The only portion which is excluded is that portion of the assistance provided over and above the normal shelter cost component of a regular PA or GA grant. For example, where a PA or GA program is designed to provide a monthly grant or allowance which contains a standard shelter cost component of \$200 for all households and the State or local government provides a total of \$500 (\$200 plus an additional \$300 monthly rental allowance) for households residing in welfare hotels, only the \$300 additional rental allowance is excluded as income because it exceeds the normal shelter cost component (\$200 in this example) and, therefore, is considered to be over and above the normal PA or GA grant.

However, Congress recently passed legislation that supercedes this policy, for a limited time, for particular households in temporary housing facilities. Section 807 of Pub. L. 100-77, amends section 5(k)(2) of the Food Stamp Act to provide an income exclusion for PA or GA housing assistance made to a third party on behalf of households residing in temporary housing facilities, if the temporary housing unit provided to the household as a result of such assistance lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption.

Using the example described above, under the provisions of Pub. L. 100-77 the normal shelter cost component of \$200 as well as the additional \$300 rental allowance would be excluded from income of the specific households covered by the statute.

Accordingly, this action amends 7 CFR 273.9(c)(1) to provide a specific income exclusion for a PA or GA housing assistance payment made on behalf of a household and paid by the

State or local government directly to a housing provider, for households residing in temporary housing, if the temporary housing unit provided for the household lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption.

In accordance with Pub. L. 100-77, this action also provides that the income exclusion under this provision shall expire September 30, 1989. This action also amends 7 CFR 273.9(c)(1)(iii)(B), which is redesignated by this action as 7 CFR 273.9(c)(1)(iv)(B), to conform that provision to the income exclusion policies discussed above set forth in § 273.9(c)(1)(i) of this action.

Additionally, this action amends 7 CFR 273.9(b)(2)(i) to conform that provision to the vendor payments provisions outlined in § 273.9(c) of this action when determining if a PA or GA vendor payment is considered as unearned income under 7 CFR 273.9(b)(2)(i).

Standard and Shelter Expense Deductions—Section 273.9(d) (7) and (8)

Food Stamp Program benefits are calculated on the basis of an individual household's net income. The lower the household's net income, the higher the food stamp benefit it may be entitled to receive. Section 5(e) of the Food Stamp Act of 1977, as amended, provides for certain deductions from household income.

Deductions serve to lower household net income. The standard deduction is available to all households. The excess shelter expense deduction is available to households with high shelter costs. There is a maximum amount for the excess shelter expense deductions, unless the household has an elderly or disabled member, in which case there is no maximum. The amounts of the standard and the excess shelter expense deductions are adjusted annually to take into account certain changes in the cost of living.

Pub. L. 100-77 made changes relating to the standard and excess shelter expense deductions. It changed the methodology for making annual adjustments in the standard deduction, changed the maximum amount of the excess shelter expense deduction, and changed the methodology for making annual adjustments in the maximum excess shelter expense deduction. In order to understand the rationale for the changes relating to the standard and excess shelter expense deductions, it is necessary to have a historical perspective relating to the method of adjusting these deductions.

When the Food Stamp Act of 1977 was enacted, adjustments in the level of the standard deduction were based on changes in the Consumer Price Index (CPI) for items other than food. Adjustments in the level of the excess shelter expense deduction were based on changes in the shelter, fuel, and utilities components of housing costs in the CPI. Both of these CPI measures (1. items other than food and 2. shelter, fuel, and utilities) incorporated the month-to-month changes in prices of five expenditures of owning a home, two of which, house prices and contracted mortgage interest costs, were based on the six percent of all families who actually purchased a home in the CPI base period. The prices used for houses and mortgage interest rates were "current" prices, which meant that those expenditure items overstated inflation after the 1977 Act was implemented because they were the most rapidly rising parts of the fixed market basket of goods and services upon which the CPI was based.

In order to correct the overstatement of inflation and base food stamp deduction adjustments on a methodology which related more closely to renters (the majority of food stamp households), Pub. L. 97-35, enacted August 13, 1981, made a change in the method of adjusting the standard and excess shelter expense deductions.

Under Pub. L. 97-35, the annual adjustment in the level of the standard deduction took into account changes in the Consumer Price Index for All Urban Consumers (CPI-U) for items other than (1) food, (2) homeownership (homeowners' costs), and (3) maintenance and repair component of shelter costs. The homeownership (homeowners' costs) and maintenance and repair components were also removed from the shelter component of the CPI-U when computing the annual adjustment in the excess shelter expense deduction, so that the excess shelter expense deduction was based on changes in the shelter (less homeownership (homeowners' costs) and maintenance and repair component of shelter costs), fuel, and utilities components of housing costs in the CPI-U.

It was originally thought that deleting the components of the CPI relating to homeownership from the market basket used to adjust the standard and excess shelter expense deductions would slow the upward trend in these deductions, result in smaller and more appropriate annual increases in the two deductions, and make them more reflective of the situation of renters. However, because

of changed circumstances, Congress felt that this understated the deductions for food stamp households. (*Congressional Record*, April 9, 1987, S 4941). Therefore, Pub. L. 100-77 will base the standard deduction adjustment on changes in the CPI-U for items other than food. It will base the maximum excess shelter expense deduction adjustment on changes in the shelter, fuel, and utilities components of housing costs in the CPI-U. Although this appears to be the same procedure as was used before Pub. L. 97-35 was enacted, it is not because the Bureau of Labor Statistics (BLS), which publishes the CPI-U, has recently changed their calculation of homeowners' costs to make them more reflective of renters by including a rental equivalence component and an owners' rent component.

Accordingly, this action amends 7 CFR 273.9(d)(7) to provide that the standard deduction shall be adjusted on October 1, 1987, and each October 1 thereafter, to reflect changes in the CPI-U for items other than food. This action also amends 7 CFR 273.9(d)(8) to provide that the excess shelter expense deduction shall be adjusted October 1, 1988 and each October 1 thereafter, to reflect changes in the shelter, fuel, and utilities components of housing costs in the CPI-U.

Additionally, Pub. L. 100-77 increased the maximum value of the excess shelter expense deduction. Accordingly, effective October 1, 1987, for all new applicants and recertifications, the new shelter deductions will be \$164 in the 48 States and DC, \$285 in Alaska, \$234 in Hawaii, \$199 in Guam, and \$121 in the Virgin Islands. These amounts will also be announced in a Notice published in the *Federal Register* when the October 1, 1987 adjustments in the allotments and standard deductions are announced. In accordance with the statute, the new deduction cap does not apply with respect to an allotment issued for a certification period beginning before October 1, 1987. Accordingly, the rule provides that the new shelter deduction limits shall be phased-in for households whose certification periods began before October 1, 1987. Such households shall receive the new deduction amounts when the household is recertified after October 1, 1987. Until they are phased-in, these households shall have their shelter deduction limit based on the procedure that was in effect under the Food Stamp Act prior to the enactment of Pub. L. 100-77. That statutory provision provides for a cost-of-living update to the shelter deduction limit to become effective on October 1, 1987. This update will occur. Thus, the

phased-in households will have an adjusted shelter deduction limit applied to them on October 1, 1987 and then have the new limit under Pub. L. 100-77 applied when they are recertified.

Loss-of-Benefits Penalty—Section 273.18

Section 805 of Pub. L. 100-77 amends section 5(e) of the Food Stamp Act to impose a new loss-of-benefits penalty on those food stamp recipients who fraudulently fail to report income. This provision is intended to ensure that food stamp recipients who deliberately fail to report earnings are not given the advantage of a deduction that is intended to encourage work.

Under current regulations at 7 CFR 273.18, food stamp recipients who fail to report earnings must repay the benefits received in excess of what would have been received had earnings been properly reported. The amount to be repaid is the difference between what the household received in benefits and what it would have received if it had reported its earnings correctly. In calculating the amount of overissuance owed, State agencies must apply the 20 percent earned income deduction to the unreported earnings.

The new statutory provision prohibits the earned income deduction from being applied to unreported earnings when the amount of food stamp benefits paid improperly because of fraudulent failure to report is calculated for collection. The amendment specifically states that the provision only applies to that portion of income which the household fails to report, not the entire amount of earned income. By doing this, the household that benefited from the fraudulent act is penalized since the amount it has to repay in overissuance will be increased. For example, if a food stamp household reports a monthly income of \$500 when it actually received \$800, the 20 percent earned income deduction would not be applied to the \$100 in unreported earnings when the State agency calculates the amount of overissued benefits.

Accordingly, this action amends 7 CFR 273.18(c)(2)(ii) to provide that when determining the amount of benefits a household should have received, for the purpose of calculating a claim against the household, the State agency shall not apply the 20 percent earned income deduction to that portion of earned income which the household intentionally failed to report. (The statutory provision refers to willful or fraudulent failure to report; the Department interprets willful, or intentional, failure to report to be synonymous with fraudulent failure to

report.) However, when determining whether or not there is an error for quality control (QC) purposes, the earned income deduction should not be disregarded. This is because QC determines the accuracy in which State agencies have determined households eligible or ineligible for program participation. To disregard the earned income deduction for QC purposes would penalize the State agencies when the provision is only intended to penalize those households which intentionally violate the Program.

It is important to note that this provision only applies in cases where the recipient has been found, in accordance with the Act, to have intentionally failed to report earnings, thereby limiting its application to cases of proven rather than alleged fraud. The Department still encourages State agencies to process a claim against the suspect household as an inadvertent household error claim prior to the determination of intentional Program violation. The Department realizes that in cases where the household is found guilty, State agencies must refigure the amount of the claim. However, since there can sometimes be a significant lapse of time between the discovery of an overissuance and a finding of fraud the Department still believes that proceeding with the claim as an inadvertent household error claim is the best course of action.

Implementation—Section 272.1(g)

In accordance with Pub. L. 99-198 and Pub. L. 100-77, this action amends 7 CFR 272.1(g) to provide that the provisions of this action are effective, and must be implemented, as follows:

The provision which replaces the definition of "homeless food stamp household" with a definition of "homeless individual" is effective July 22, 1987. The definition is utilized for the expedited service provisions and the provisions governing disbursement of Program information to the homeless contained in this action. The definition is also used in conjunction with the current rules, promulgated to implement the Homeless Eligibility Clarification Act, governing the redemption of coupons by homeless food stamp households. The expedited service provisions and the provisions governing the disbursement of Program information to the homeless are effective at a significantly later date. The definition does not alter or change current provisions governing redemption of coupons by homeless individuals. Therefore, this action provides that State agencies immediately inform caseworkers of the new definition. No

other implementation efforts are required of the State agencies.

The provision which defines "General assistance", the provision which excludes PA/GA vendor payments from consideration as income if provided for medical, child care, or energy assistance, and the provision which excludes PA/GA vendor payments from income as emergency or special assistance are effective retroactively to April 1, 1987. The provision governing emergency or special assistance vendor payments and the provision which defines "General assistance" reflect longstanding Departmental policy and do not require implementation efforts by State agencies. State agencies must implement the other exclusions immediately in order to come into compliance with the statute. In the event that there are affected households, such households shall be entitled to restored benefits, if appropriate, back to the date of the household's application or April 1, 1987, whichever occurs later. For QC purposes only, QC reviewers shall not identify variances resulting solely from the inclusion or exclusion from income of medical, child care or energy assistance PA/GA vendor payments in cases with review dates between April 1, 1987 and October 31, 1987.

The provision which grants an income exclusion for vendor payments made by State or local governments to welfare hotels and similar facilities is effective and shall be implemented for new applicant households for the period beginning October 20, 1987 and ending September 30, 1989. By law, this provision does not apply to allotments issued to any household for any month beginning before the effective date of the provision. Therefore, this action provides that State agencies convert their affected current caseload to this provision, if otherwise eligible, at household recertification, when the household requests a review of its case, or when the State agency otherwise becomes aware that a review needed, but not prior to October 20, 1987.

The provisions which allow State agencies to provide and obtain Federal reimbursement for Program informational activities aimed at the homeless are effective July 22, 1987.

The provision which allows separate household status to be granted to certain individuals living with their parent(s) or sibling(s) and the conforming provision which requires such households to be assigned a certification period that does not exceed six months is effective and must be implemented on October 1, 1987. New applicant households which apply for benefits on or after October 1,

1987 may be granted separate household status under this provision. Current participants which may be eligible for separate household status under this provision may be granted separate status, but not prior to October 1, 1987, if the household requests separate status and the State agency determines that the household meets the requirements of this provision.

In accordance with Pub. L. 100-77, the Department has the discretion to establish the effective date of the provision which extends the current expedited service procedures to two additional categories of households. By law, the effective date cannot be later than 180 days after enactment of Pub. L. 100-77. This action provides that this provision is effective and shall be implemented for applicant households on December 1, 1987.

The provision which changes the effective date for annual cost-of-living adjustments to the income eligibility limits from July 1 to October 1 each year is effective July 1, 1988. Thus, the income eligibility limits that were placed into effect on July 1, 1987 will remain in effect until October 1, 1988. Annual adjustments to the income eligibility limits will now be on the same schedule with the annual cost-of-living adjustments for the Thrifty Food Plan and deductions.

The provision which changes the methodology for making annual cost-of-living adjustments to the standard deduction is effective October 1, 1987. The provision which changes the methodology for making annual cost-of-living adjustments to the excess shelter expense deduction is effective October 1, 1988.

The provision which establishes new amounts for the maximum excess shelter expense deduction is effective October 1, 1987. State agencies shall apply the new deduction limit to all households which apply for benefits on or after October 1, 1987. However, in accordance with the statute, the new deduction limits are not to be applied to participating households whose certification period began prior to October 1, 1987. Rather, these households are to be phased-in to the new limits as they are recertified. Until they are phased-in, these households shall have the shelter deduction limit applied to them that was in effect under the Food Stamp Act prior to the enactment of Pub. L. 100-77. That statutory provision provides for a cost-of-living update to the shelter deduction limit to become effective on October 1, 1987. This update will occur. Thus, the phased-in households will have an

adjusted shelter deduction limit applied to them on October 1, 1987 and then have the new limits under Pub. L. 100-77 applied when they are recertified.

The statute requires that the provision which imposes an earned income deduction penalty when calculating fraud claims take effect September 5, 1987. It is important to note that the date an allotment is issued is not the determining factor as to the implementation of this provision. Rather, the determining factor is the month for which benefits are issued. The statute specifies that the provision not apply to any allotments issued for months beginning before the effective date. Therefore, this rule requires State agencies to apply the provision to all allotments reflecting overissuances resulting from the international failure to report earned income issued for the month immediately following the month in which the effective date of the provision falls. For most State agencies, those that issue on a calendar month basis, this means the provision is to be applied to the allotments issued for October 1987 and all allotments issued for subsequent months. Thus, as noted above, State agencies that issue on a calendar month basis must implement this provision for allotments issued for October, even if the issuance occurs in September. Likewise, issuance made in October for September or earlier months must not have the provision applied to them. State agencies that issue on other than a calendar month basis will need to determine which issuance month begins immediately after September 5, 1987 and apply the provision to issuances for that month. The same principles noted above for calendar month systems would apply to these systems.

This action further provides that State agencies must implement the provisions of Pub. L. 100-77 as outlined in this action on the specific dates required for each provision. If, for any reason, the State agency fails to implement the provisions on the date required, affected households, if appropriate, shall be entitled to restored benefits back to the date of application or the effective date of the provisions involved, whichever occurs later.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs-social programs.

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs-social programs,

Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food Stamps, Fraud, Grant programs-social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

7 CFR Part 277

Food stamps, Government procurement, Grant programs-social programs, Investigations, Reporting and recordkeeping requirements.

Accordingly, Parts 271, 272, 273, and 277 are amended as follows:

1. The authority citation for Parts 271, 272, 273 and 277 continues to read as follows:

Authority: 7 U.S.C. 2011-2029.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2, *Definitions*, the definition of "General assistance" is revised, the definition of "Homeless food stamp household" is removed, and a new definition for "Homeless individual" is added.

The revision and addition read as follows:

§ 271.2 Definitions.

"General assistance (GA)" means cash or another form of assistance, excluding in-kind assistance, financed by State or local funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.

"Homeless individual" means an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

- (1) A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);
- (2) A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;
- (3) A temporary accommodation in the residence of another individual; or
- (4) A place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

3. In § 272.1 a new paragraph (g)(93) is added in numerical order to read as follows:

§ 272.1 General terms and conditions.

(g) *Implementation.* * * *

(93) *Amendment No. 298.* The provisions of Amendment No. 298 are effective, and shall be implemented, as follows:

(i) The provision in § 271.2 of this amendment which defines "General assistance" and the provisions contained in § 273.9(b)(2)(i), § 273.9(c)(1)(ii)(A), (c)(1)(ii)(B), and (c)(1)(ii)(C), regarding exclusion of certain PA/GA vendor payments are effective retroactively to April 1, 1987. The provision in § 273.9(c)(1)(iv)(B), exclusion of emergency/special PA/GA vendor payments, is also effective retroactive to April 1, 1987, however, this provision reflects current policy and requires no implementation efforts by State agencies. State agencies shall immediately implement the other provisions listed above. Affected households shall be entitled to restored benefits back to the date of application or April 1, 1987, whichever occurred later. For QC purposes only, QC reviewers shall not identify variances resulting solely from implementation or nonimplementation of these provisions in cases with review dates between April 1, 1987 and October 31, 1987.

(ii) The technical amendment to Part 277 is effective September 29, 1987, and does not require implementation efforts by State agencies. The remaining provisions of Amendment No. 298 are effective, and must be implemented, as follows:

(A) Section 271.2, definition of "Homeless individual," effective July 22, 1987. State agencies shall immediately inform caseworkers of the new definition. No other implementation efforts are required to the State agencies.

(B) Section 273.9(c)(1)(ii)(D), the income exclusion of certain PA/GA vendor payments, is effective and shall be implemented for new applicant households which apply for benefits during the period beginning October 20, 1987 and ending September 30, 1989. This provision does not apply to allotments issued to any household for any month beginning before the effective period of the provision. State agencies shall convert their affected current caseload to this provision, if otherwise eligible, at recertification,

when the household requests a review of its case, or when the State agency otherwise becomes aware that a review is needed but not prior to October 20, 1987.

(C) Section 272.5, the financial reimbursement for Program informational activities for the homeless, is effective July 22, 1987.

(D) Section 273.1(a)(2)(i)(C), § 273.1(a)(2)(i)(D), § 273.10(f)(2), the exception to certain household composition requirements, and the rule regarding recertification of households subject to the exception, are effective and must be implemented on October 1, 1987. Households which apply for benefits on or after October 1, 1987 may be granted separate household status under this provision. Current participants which may be eligible for separate household status under this provision, may be granted separate status, but not prior to October 1, 1987, if the household requests separate status and the State agency determines that the household meets the requirements of this provision.

(E) Section 273.2(i), the expansion of expedited service, is effective, and must be implemented, for affected households applying for Program benefits on or after December 1, 1987.

(F) Section 273.9(a)(3), regarding the date of making the annual adjustment to the income standards, is effective with the 1988 annual adjustment. The July 1, 1987 income limits will remain in effect until October 1, 1988.

(G) The first three sentences of § 273.9(d)(8)(i), the raising of the shelter deduction limit for the 48 States and DC., Alaska, Hawaii, Guam and Virgin Islands, are effective October 1, 1987. State agencies shall implement the higher deduction limits appearing in the first sentence of § 273.9(d)(8)(i) on October 1, 1987 only for households whose certification periods begin on or after October 1, 1987. State agencies shall implement the lower deduction limits appearing in the second sentence of § 273.9(d)(8)(i) on October 1, 1987 only for households whose certification periods begin before October 1, 1987. The State agency shall implement the higher deduction limits for households whose certification periods begin before October 1, 1987 beginning with the month in which such household is recertified after October 1, 1987.

(H) Section 273.9(d)(7)(i), the change in the standard deduction methodology, is effective October 1, 1987.

(I) The last sentence of § 273.9(d)(8)(i), the change in the excess shelter deduction methodology, is effective, October 1, 1988.

(J) Section 273.18(c)(2)(ii), the earned income deduction penalty, is effective on September 5, 1987. State agencies which issue on a calendar month basis, shall apply this provision to allotments issued for October 1987 and all allotments for subsequent months. State agencies which issue on other than a calendar month basis shall apply the provision to the issuance for the first issuance month beginning after September 5, 1987.

(iii) State agencies must implement the provisions as outlined in paragraph (g)(93)(ii) of this section on the specific dates required for each provision. If, for any reason, the State agency fails to implement the provisions on the required date, affected households, if appropriate, shall be entitled to restored benefits back to the date of application or the effective date of the provision involved, whichever occurred later.

4. In § 272.5: a. Paragraph (a) is amended by removing the words "to applicant and recipient households".

b. Introductory paragraph (b) is amended by adding before the period appearing at the end of the paragraph, the words "for applicants and recipients".

c. A new paragraph (c) is added. The addition reads as follows.

§ 272.5 Program informational activities.

(c) *Program information for the homeless.* State agencies, at their option, may carry out Program informational activities directed toward homeless individuals. When providing Program information such as this, only those efforts specifically directed toward homeless individuals, as defined in § 271.2, will be funded by FNS in accordance with Part 277. State agencies shall inform FNS in writing what they will do to ensure that Program information is directed only toward individuals who are actually homeless.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

5. In § 273.1: a. Paragraph (a)(2)(i)(C) is amended by adding a new sentence to the end of paragraph (a)(2)(i)(C).

b. Paragraph (a)(2)(i)(D) is amended by adding a new sentence to the end of paragraph (a)(2)(i)(D).

The additions read as follows:

§ 273.1 Household concept.

(a) *Household definition.* * * *

(2) *Special definition.*

(i) * * *

(C) * * * If the natural, adopted or stepchild is a parent of minor children and he/she and the children are living with his/her parent(s), the parent of the

minor children, together with such children, may be granted separate household status based on the provisions of paragraph (a)(1) of this section and subject to the provisions of paragraphs (a)(2)(i)(A) and (a)(2)(i)(B) of this section and the certification period as required by § 273.10(f)(2).

(D) * * * If a sibling is the parent of minor children and he/she and the children are living with his/her sibling, the sibling who is the parent of the minor children, together with such children, may be granted separate household status based on the provisions of paragraph (a)(1) of this section and subject to the provisions of paragraphs (a)(2)(i)(A) and (a)(2)(i)(B) of this section and the certification period as required by § 273.10(f)(2).

* * *

6. In § 273.2, paragraph (i)(1) is revised in its entirety to read as follows:

§ 273.2 Application processing.

* * *

(i) *Expedited service.*—(1) *Entitlement to expedited service.* The following households are entitled to expedited service:

(i) Households with less than \$150 in monthly gross income, as computed in § 273.10 provided their liquid resources (i.e., cash on hand, checking or savings accounts, savings certificates, and lump sum payments as specified in § 273.9(c)(8)) do not exceed \$100;

(ii) Migrant or seasonal farmworker households who are destitute as defined in § 273.10(e)(3) provided their liquid resources (i.e., cash on hand, checking or savings accounts, savings certificates, and lump sum payments as specified in § 273.9(c)(8)) do not exceed \$100;

(iii) Eligible households in which all members are "homeless individuals" as defined in § 271.2; or

(iv) Eligible households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage, and utilities.

* * *

7. In § 273.9: a. Introductory paragraph (a)(3) is revised.

b. The first sentence of paragraph (b)(2)(i) is revised and a new sentence is added after the first sentence.

c. Paragraphs (c)(1)(ii), (c)(1)(iii) and (c)(1)(iv) are redesignated as paragraphs (c)(1)(iii), (c)(1)(iv) and (c)(1)(v), respectively and a new paragraph (c)(1)(ii) is added.

d. Newly redesignated paragraph (c)(1)(iv)(B) is revised in its entirety.

e. Paragraphs (d)(7)(i) and (d)(8)(i) are revised.

The revisions and addition read as follows:

§ 273.9 Income and deductions.

(a) *Income eligibility standards.*

(3) The income eligibility limits, as described in this paragraph, are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the 48 States and the District of Columbia, for Alaska, and for Hawaii.

(b) *Definition of income.*

(2)

(i) Assistance payments from Federal or federally aided public assistance programs, such as supplemental security income (SSI) or aid to families with dependent children (AFDC); general assistance (GA) programs (as defined in § 271.2); or other assistance programs based on need. Such assistance is considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household), unless the vendor payment is specifically exempt from consideration as countable income under the provisions of paragraph (c)(1) of this section.

(c) *Income exclusions.*

(1)

(ii) A PA or GA payment which is not made directly to the household, but paid to a third party on behalf of the household to pay a household expense, shall be considered an excludable vendor payment and not counted as income to the household if such PA or GA payment is for:

(A) Medical assistance;

(B) Child care assistance;

(C) Energy assistance (as defined in paragraph (c)(11) of this section); or

(D) Housing assistance payments made to a third party on behalf of a household residing in temporary housing, if the temporary housing unit provided for the household as a result of such assistance lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption, provided that such vendor payments shall be excluded under this provision if paid to the housing provider during the period beginning October 20, 1987 and ending September 30, 1989.

(iv)

(B) All or part of a public assistance (PA) or general assistance (GA) grant or payment which is diverted to a third party or to a protective payee for purposes such as, but not limited to, managing a household's expenses, shall

be considered income to the household and not excluded as a vendor payment, except as provided for in paragraphs (c)(1)(i) and (c)(1)(ii) of this section.

Assistance financed by State or local funds which is provided over and above the normal PA or GA grant or payment, or is not normally provided as part of such grant or payment would be considered emergency or special assistance and excluded as income if provided to a third party on behalf of the household. For example, where a PA or GA program provides all households with school age children with a monthly "extra" childrens clothing allowance, paid directly to a clothing store, that allowance would not be excluded because it is part of the regular monthly assistance for all households in that category and is not really an "extra" payment. On the other hand, if a fire destroyed the household's clothing and it receives an "emergency" amount paid directly to a clothing store, such a payment could be excluded under this provision. Where the program is not composed of various standards, allowances, or components, but is simply designed to provide assistance on an as needed basis rather than provide routine, regular monthly benefits to a client, no exclusion would be granted under this provision. For example, if such a program provides a household with a food voucher to be presented to a store, the value of the voucher is not excluded as emergency or special assistance because it is not provided over and above the normal grant, *it is the normal grant*. If it is not clear that a certain type of PA or GA vendor payment is covered under this general exclusion policy, the State agency shall apply to the appropriate FNS Regional Office for a determination of whether PA or GA vendor payments that the State believes are provided for emergency or special circumstances should be excluded. The application for this exclusion determination must explain: the emergency and special nature of the vendor payment, the exact type of assistance it is intended to provide, who is eligible for the assistance, how the assistance is paid, and how the vendor payment fits into the overall PA or GA scheme. A copy of the rules, ordinances or statutes which creates and authorizes the program shall accompany the application request.

(d) *Income deductions.*

(7) *Adjustment of standard deduction.*

(i) Effective October 1, 1987, and each October 1 thereafter, the standard deduction shall be adjusted to reflect change in the CPI-U for items other than

food for the twelve months ending the preceding June 30.

(8) *Adjustment of shelter deduction.*

(i) Effective October 1, 1987, for households whose certification period begins on or after October 1, 1987, the maximum monthly excess shelter expense deduction limits shall be \$164 for the 48 States and D.C., \$285 for Alaska, \$234 for Hawaii, \$199 for Guam, and \$121 for the Virgin Islands. Effective October 1, 1987, for households whose certification period began before October 1, 1987, the maximum monthly excess shelter deduction limits shall be \$152 for the 48 States and D.C., \$261 for Alaska, \$217 for Hawaii, \$185 for Guam, and \$112 for the Virgin Islands. Households whose certification period began before October 1, 1987 shall receive the higher deduction limits stated in this paragraph beginning with the first month of the certification period for which such households are recertified after October 1, 1987. Effective October 1, 1988, and each October 1 thereafter, the maximum limit for excess shelter expense deductions shall be adjusted to reflect changes in the shelter, fuel, and utilities components of housing costs in the CPI-U for the twelve months ending the preceding June 30.

8. In § 273.10, paragraphs (f)(2) through (f)(7) are redesignated as paragraphs (f)(3) through (f)(8), respectively, and a new paragraph (f)(2) is added to read as follows:

§ 273.10 Determining household eligibility and benefit levels.

(f) *Certification periods.*

(2) Households which are granted separate household status, in accordance with § 273.1(a)(2)(C) and (D), because the household consists of an individual and that individual's minor child(ren) living with the individual's parent or sibling and purchasing and preparing meals separate from the parent/sibling shall be assigned a certification period not to exceed six months.

9. In § 273.18, paragraph (c)(2)(ii) is amended by adding a new sentence to the end of the paragraph to read as follows:

§ 273.18 Claims against households.

(c) *Calculating the amount of claims.*

(2)

(ii) * * * When determining the amount of benefits the household should have received, the State agency shall not apply the 20 percent earned income deduction to that portion of earned income which the household intentionally failed to report.

* * * * *

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

Appendix A—Amended

10. In Appendix A, under section entitled *Standards for Selected Items of Costs*, paragraph C. (14) is amended by replacing the reference to "§ 272.6" with a reference to "§ 272.5".

Anna Kondratas,

Administrator, Food and Nutrition Service.

Date: September 24, 1987.

[FR Doc. 87-22359 Filed 9-28-87; 8:45 am]

BILLING CODE 3410-30-M

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 14; Doc. No. 4751S]

General Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by re-defining the insurance period for all insured crops to provide that insurance attaches on the later of when the crop is planted or when the application is properly completed, signed and delivered to the service office in addition to the other attachment references therein. The intended effect of this rule is to prevent the possibility of adverse selectivity resulting in an automatic replant payment. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: *Effective date:* September 29, 1987. Comments may be submitted until November 30, 1987.

ADDRESS: Written comments on this interim rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department

of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1992.

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

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

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

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

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

FCIC herewith amends 7 CFR Part 401—General Crop Insurance Regulations, effective for the 1988 and succeeding crop years to provide that, in addition to the other insurance period references therein, insurance attaches on the later of when the crop is planted or when the application is signed.

Present provisions contained in section 7 of the general crop insurance policy published in the *Federal Register* on Thursday, July 30, 1987 at 52 FR 28443, provide only that insurance attaches on each unit, or part of a unit, when the insured crop is planted or on the calendar date for the beginning of

the insurance period if specified in the crop endorsement.

FCIC has identified several states where insurable crops (primarily corn and grain sorghum) are planted as much as 6 weeks in advance of the sales closing date for the area for such crops. After damage occurs, a non-insured determining that the planted crop will not reach production, may buy crop insurance and collect an automatic replant payment. Such adverse selection is counter to the principles of an actuarially sound insurance program and provides an opportunity for fraudulently obtaining crop insurance coverage.

FCIC has determined that it is necessary to amend the insurance period provisions in the general crop insurance policy to prevent such occurrences.

This amendment has no effect on any other provision of the general crop insurance policy.

While this amendment is not considered an emergency rule, the far reaching effect of this provision allowing a producer to plant several weeks in advance of the sales closing date, then just prior to the closing date to purchase insurance virtually guaranteeing a replant payment payment, requires an immediate change in this provision in order to protect the integrity of the crop insurance program.

Therefore, FCIC has determined that it good cause is shown to make this rule effective upon publication in the *Federal Register* and to allow 60 days following publication for the public to submit written comments, data, and opinions on the rule.

This rule will be scheduled for review so that any amendment made necessary by public comment may be published as quickly as possible following the public comment period.

Written comments on this interim rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250. All written comments received in connection with this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC during regular business hours Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation herewith amends the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CROP YEARS

1. The authority citation for 7 CFR Part 401 continues to read as follows:

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

2. 7 CFR Part 401 is amended by revising § 401.8(d)7 to read as follows:

* * * * *

§ 401.8 The application and policy.

* * * * *

(d) * * *

7. Insurance period.

Insurance attaches on each unit or part of a unit when the insured crop is planted or when the application is properly signed, completed, and delivered to your service office, whichever is later, or on the calendar date for the beginning of the insurance period if specified in the crop endorsement, and ends at the earliest of:

- (a) Total destruction of the insured crop on the unit;
- (b) Harvest of the unit;
- (c) Final adjustment of a loss on a unit; or
- (d) The calendar date for the end of the insurance period contained in the crop endorsement.

* * * * *

Done in Washington DC on September 2, 1987.

E. Ray Fosse,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-22345 Filed 9-28-87; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 10

[Docket No. 87N-0261]

Administrative Practices and Procedures; Conforming Amendment

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing an amendment to its regulation specifying the date on which the administrative

record of a regulation closes so that the record closes on the date of publication of the regulation rather than on the date of the Commissioner's decision on the regulation. This amendment conforms FDA's regulation to the review requirements under Executive Order 12291 and the Secretary's reservation of authority to approve certain FDA regulations (21 CFR 5.11).

EFFECTIVE DATE: September 29, 1987.

FOR FURTHER INFORMATION CONTACT: Robert L. Spencer, Division of Regulations Policy (HFC-220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: Part 10 of FDA's administrative practices and procedures regulations, § 10.40(h) (21 CFR 10.40(h)), provides in part that "The record of the administrative proceeding closes on the date of the Commissioner's decision unless some other date [is] specified." Inadvertently, neither at the time the President issued Executive Order 12291 on review of regulations (46 FR 13193; February 19, 1981) nor at the time the Secretary, Department of Health and Human Services, issued § 5.11 (47 FR 16318; April 16, 1982) did FDA issue a conforming amendment to § 10.40(h) to take into account the need to close the administrative record on a regulation at the time of its publication, not at the time the Commissioner of Food and Drugs completed his review. Accordingly this document amends § 10.40(h) by changing the date on which the administrative record closes from "the date of the Commissioner's decision" to "the date of publication of the final regulation in the Federal Register unless some other date is specified."

Because this rule merely conforms FDA's administrative practices and procedures regulation to the review requirements of Executive Order 12291 and of 21 CFR 5.11 and is a rule on agency management, notice, public procedure, and delayed effective date are unnecessary under 5 U.S.C. 553 (a)(2), (b)(A), (b)(B), and (d)(3).

List of Subjects in 21 CFR Part 10

Administrative practice and procedure.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 10 is amended as follows:

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

1. The authority citation for 21 CFR Part 10 continues to read as follows:

Authority: Sec. 201 et seq., Pub. L. 717, 52 Stat. 1040 as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., Pub. L. 410, 58 Stat. 682 as amended (42 U.S.C. 201 et seq.); sec. 4, Pub. L. 91-513, 84 Stat. 1241 (42 U.S.C. 257a); sec. 301 et seq., Pub. L. 91-513, 84 Stat. 1253 (21 U.S.C. 821 et seq.); sec. 409(b), Pub. L. 242, 81 Stat. 600 (21 U.S.C. 679(b)); sec. 24(b), Pub. L. 85-172, 82 Stat. 807 (21 U.S.C. 467f(b)); sec. 2 et seq., Pub. L. 91-597, 84 Stat. 1620 (21 U.S.C. 1031 et seq.); secs. 1 through 9, Pub. L. 625, 44 Stat. 1101-1103 as amended (21 U.S.C. 141-149); secs. 1 through 10, Chapter 358, 29 Stat. 604-607 as amended (21 U.S.C. 41-50); sec. 2 et seq., Pub. L. 783, 44 Stat. 1406 as amended (15 U.S.C. 401 et seq.); sec. 1 et seq., Pub. L. 89-755, 80 Stat. 1296 as amended (15 U.S.C. 1451 et seq.).

2. Section 10.40 is amended by revising paragraph (h) to read as follows:

§ 10.40 Promulgation of regulations for the efficient enforcement of the law.

* * * * *

(h) The record of the administrative proceeding closes on the date of publication of the final regulation in the Federal Register unless some other date is specified. Thereafter, any interested person may submit a petition for reconsideration under § 10.33 or a petition for stay of action under § 10.35. A person who wishes to rely upon information or views not included in the administrative record shall submit it to the Commissioner with a new petition to modify the final regulation.

* * * * *

Dated: September 22, 1987.
John M. Taylor,
Associate Commissioner for Regulatory Affairs.
[FR Doc. 87-22352 Filed 9-28-87; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Novobiocin

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co. The NADA provides for the manufacture of a Type B medicated feed containing 17.5 grams novobiocin per pound for making Type C medicated feeds for the treatment or control of certain infections in chickens, turkeys, ducks, and mink.

EFFECTIVE DATE: September 29, 1987.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for

Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, has filed a supplement to NADA 12-375, Albamix® Feed Medication (novobiocin) providing for a Type B medicated feed containing 17.5 grams novobiocin per pound. The Type B medicated feed is for making Type C medicated feed as follows: For chickens and turkeys for the treatment of staphylococcal synovitis, generalized staphylococcal infections, and as an aid in the treatment of breast blisters associated with staphylococcal infections susceptible to novobiocin; for turkeys (only) for the treatment of acute outbreaks of fowl cholera and as an aid in control of recurring outbreaks of fowl cholera caused by strains of *Pasteurella multocida* susceptible to novobiocin; for mink for the treatment of generalized infections, abscesses, or urinary infections caused by staphylococcal or other novobiocin sensitive organisms; and ducks for control of infectious serositis and fowl cholera caused by *Pasteurella anatipestifer* and *P. multocida* susceptible to novobiocin. The application is approved and 21 CFR 558.415(a) is amended to reflect the approval.

Approval of this supplement is an administrative action that did not require generation of new effectiveness or safety data. Therefore, a freedom of information summary (pursuant to 21 CFR 514.11(e)(2)(ii)) is not required.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.415 is amended by revising paragraph (a) to read as follows:

§ 558.415 Novobiocin.

(a) *Approvals.* Type A medicated articles: 25 grams of activity per pound to 000009 in § 510.600(c) of this chapter. Type B medicated feeds: 17.5 grams per pound to 000009 in § 510.600(c) of this chapter.

* * * * *

Dated: September 22, 1987.

Richard A. Carnevale,

Acting Associate Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 87-22351 Filed 9-28-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 372

[DoD Directive 5122.10]

American Forces Information Service (AFIS)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This part updates the current AFIS charter to reflect Visual Information, Armed Forces Radio and Television Service, and Defense Information School responsibilities that have been assigned to the Director, AFIS since the charter was last issued on March 19, 1980. It also authorizes the Director, AFIS to approve Joint Service Achievement Medals for AFIS personnel.

EFFECTIVE DATE: July 23, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Becker, Office of the Assistant Secretary of Defense (Comptroller), the Pentagon, Washington, DC 20301, telephone (202) 697-0709.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 372

Organization and function.

Accordingly, 32 CFR Part 372 is revised to read as follows:

PART 372—AMERICAN FORCES INFORMATION SERVICE (AFIS)

Sec.

- 372.1 Reissuance and purpose.
 - 372.2 Applicability.
 - 372.3 Definitions.
 - 372.4 Mission.
 - 372.5 Organization and management.
 - 372.6 Responsibilities and functions.
 - 372.7 Relationships.
 - 372.8 Authority.
 - 372.9 Administration.
- Appendix A—Delegations of Authority.

Authority: 10 U.S.C. 191.

§ 372.1 Reissuance and purpose.

Under the authority vested in the Secretary of Defense by Title 10, United States Code, this part to update the mission, functions, authorities, and relationships of the American Forces Information Service (AFIS) and is the authority for the existence of the Department of Defense Internal Information Program. This part also reestablishes the American Forces Information Council (AFIC).

§ 372.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified and Specified Commands, the Defense Agencies, and the Department of Defense Field Activities (hereafter referred to collectively as "DoD Components").

§ 372.3 Definitions.

(a) *Acquisition.* The process through which equipment, programs, materials, products, and services are obtained from public and commercial sources.

(b) *Armed Forces Radio and Television Service (AFRTS).* A worldwide broadcast organization that comprises an AFRTS headquarters element within AFIS, the AFRTS centralized management elements within the Military Departments, AFRTS outlets and activities around the world, and the AFRTS Broadcast Center in Los Angeles, CA.

(c) *AFRTS outlet.* Any facility authorized by the Director, AFIS, in accordance with policy to disseminate radio or television programming. An outlet includes AFRTS radio and television stations and networks, relay sites, translators, Navy and Military Sealift Command ships using AFRTS program materials, mini-TV sites, and any other AFRTS broadcast facility.

(d) *AFRTS activity.* Any activity in support of AFRTS broadcast operations, i.e., centralized management elements, regional production centers, program duplicating facilities, etc. "Support" can be in many forms—administrative, logistical, equipment maintenance, etc.

(e) *AFRTS network.* Two or more AFRTS stations, authorized by the Director, AFIS, to disseminate programming through interconnecting broadcast-quality transmission circuits.

(f) *AFRTS mini-TV.* A self-contained videotape playback system used in remote or isolated areas not accessible to an AFRTS television signal.

(g) *AFRTS broadcast center.* A field activity of the AFIS located in Los Angeles, CA, that provides information and entertainment programming to AFRTS outlets.

(h) *AFRTS regional production center.* Regional production centers (RPC's) are radio and television spot production facilities located in the two major overseas theaters (Pacific and Europe) and managed by the Air Force Broadcasting Service (AFBS). RPC's produce internal information spot announcements appropriate to their respective theaters to supplement the DoD (AFIS) worldwide spot production effort. Subjects, concept treatments, and scripts are coordinated through the appropriate Unified Command and approved by AFIS prior to final production and release.

(i) *Audiovisual (AV).* A subset of visual information relating to produced motion media with sound.

(j) *Broadcast equipment.* Items of a durable nature used for recording, producing, mixing, reproducing, broadcasting, and all items commonly used in the broadcasting and television industry for the recording, processing, distribution, reproduction, and transmission of radio and TV signals.

(k) *Internal information.* All information that is intended to keep DoD military and civilian personnel and their family members well informed on matters concerning national defense, readiness, military benefits, American and military heritage, and issues affecting their own morale and well-being. This includes information disseminated through periodicals, other publications, radio, television, motion pictures, videotape, and related media.

(l) *Joint Visual Information Service (JVIS).* A visual information service operated and maintained by a DoD Component to support more than one DoD Component.

(m) *Military department broadcasting service.* Centralized management staff elements within the Departments of the Army, Navy, and Air Force, which are responsible for the day-to-day management and operational control of all AFRTS outlets and activities that have been assigned to the executive agency of their Department.

(n) *Print media.* Printed publications issued in support of the internal information program of the Department of Defense. This includes, but is not limited to, newspapers, periodicals, pamphlets, booklets, posters, magazines, newsletters, news summaries, and news bulletins.

(o) *Visual information (VI).* Use of one or more of the various visual media with or without intrinsic sound. VI

includes still photography, motion picture photography, video recording (with or without sound), graphic arts, visual aids, models, displays, visual presentation services, and the support processes.

§ 372.4 Mission.

(a) The AFIS shall:

(1) Advise and act for the Assistant Secretary of Defense (Public Affairs) (ASD(PA)) in the:

(i) Management of DoD internal information programs.

(ii) Development of policies, guidelines, and standards for the management of DoD visual information (VI) activities and programs.

(iii) Development of policies, guidelines, and standards for the management of Armed Forces Radio and Television Service (AFRTS) outlets and activities.

(2) Provide joint-interest print, radio, film, and television materials for use in the internal information programs of the Military Departments and other DoD Components.

(b) The AFIC shall provide a forum for the exchange of information and advise on DoD internal information matters.

§ 372.5 Organization and management.

(a) The AFIS is established as a DoD Field Activity under the direction, authority, and control of the ASD(PA). It shall consist of a Director and such essential subordinate organizational elements as are established by the Director to accomplish the AFIS mission within resources assigned by the Secretary of Defense.

(b) The AFIC is established as a policy committee reporting to the ASD(PA). It shall consist of the following:

(1) Director, AFIS, who shall serve as Chairman.

(2) The Chief of Public Affairs of each of the Military Departments.

(3) A representative of the Chairman of the Joint Chiefs of Staff (CJCS).

(4) An Executive Secretary, who shall be designated by the Director, AFIS.

§ 372.6 Responsibilities and functions.

(a) The Secretaries of the Military Departments shall:

(1) Conduct internal information activities pertaining to their Department's programs, operations, and activities.

(2) Operate and maintain AFRTS outlets and activities in designated geographic areas. Continue to sustain broadcast operations, and provide maintenance and administrative support for these outlets and activities during contingencies when their operational

control has been temporarily assumed by a Unified Commander in accordance with paragraphs (c)(1) and (c)(2) of this section.

(3) Centrally manage and control all AFRTS outlets and activities of their Department.

(4) Centrally manage and control all VI activities of their Department.

(5) Operate VI activities in support of assigned missions.

(b) The Assistant Secretary of Defense (Public Affairs) (ASD(PA)) shall:

(1) Develop broad policy guidelines and objectives for DoD internal information programs.

(2) Provide policy and operational direction to the Director, AFIS.

(c) The Commanders of the Unified Commands (CINCs) shall:

(1) Develop plans for and assume operational control of assigned AFRTS facilities within their respective geographic areas of responsibility during periods of military contingency, as required to ensure a coordinated internal information effort.

(2) Ensure that requirements for the provisions of AFRTS service are considered and integrated into all military contingency and deliberate wartime planning guidance within their respective geographic areas of responsibility.

(3) Expeditiously notify the Secretaries of the Military Departments, the CJCS, and the ASD(PA) of military contingency occurrences requiring the implementation of plans for assuming operational control of AFRTS outlets, and again upon the termination of the contingency situation. Return control of AFRTS outlets to the Military Departments immediately upon termination of the contingency situation.

(4) Provide advice with respect to host-country sensitivities concerning the nature and content of radio and television programs.

(5) Conduct internal information activities on joint matters within assigned areas of operation.

(4) The Director, American Forces Information Service (AFIS), shall:

(1) Organize, direct, and manage the AFIS and all assigned resources.

(2) Serve as Director of AFRTS.

(3) For print media internal information programs:

(i) Develop and oversee the implementation of policies and procedures pertaining to the management, content, and publication of periodicals, pamphlets, armed forces newspapers, and civilian enterprise publications, including the provisions of 32 CFR Part 248 and 32 CFR Part 297.

(ii) Serve as DoD point of contact (POC) in the United States for Unified Command newspaper editorial and business policy, business guidance and assistance, and other matters.

(iii) Serve as DoD POC with the Congressional Joint Committee on Printing and other congressional entities for matters pertaining to DoD periodicals, armed forces newspapers, and civilian enterprise publications.

(iv) Develop, publish, or procure appropriate internal information materials of a DoD-wide, joint-interest nature.

(4) For AFRTS radio and television internal information programs:

(i) Designate geographic areas of responsibility for the operation of Military Department AFRTS outlets and activities, and exercise program management control of AFRTS.

(ii) Develop and oversee the implementation of policies and procedures pertaining to the management and operation of radio and television outlets and activities, including the provisions of 32 CFR Part 372a.

(iii) Exercise fiscal and manpower resource control through the Planning, Programming, and Budgeting System (PPBS). Provide guidance on, review, and approve or revise proposed resource programs; formulate budget estimates; recommend resource allocations; and monitor the implementation of approved programs.

(iv) In conjunction with the CJCS, coordinate contingency and wartime requirements with the CINCs.

(v) Administer centralized management information and resource management systems, in accordance with DoD Directive 7750.5¹ and DoD Directive 5000.11.²

(vi) Establish guidelines for and authorize the establishment of new stations, the disestablishment of existing stations, and the configuration of broadcast networks.

(vii) Develop and maintain a program for the standardization of broadcast equipment. Establish broadcast equipment technical specifications and performance standards, and certify equipment for use.

(viii) Establish manning standards for outlets and overhead staffs, and qualification standards for broadcast and technical support personnel. Review and concur or nonconcur in the selection of network commanders.

(ix) Negotiate for, acquire, and provide commercial program materials, including a free flow of general and military news, sports, and current events programs. Under normal circumstances, this function shall be carried out by the Commander, AFRTS Broadcast Center, Los Angeles, CA, under the authority, direction, and control of the Director, AFIS.

(x) Develop, produce, and procure spot announcements and public service announcements (PSA's) in support of the DoD internal information program.

(5) For VI activities and programs:

(i) Develop, promulgate, and monitor the implementation of policies, procedures, and programs, and establish management responsibilities for DoD VI activities and resources consistent with DoD Directive 5040.2.³

(ii) Operate the Federal Audiovisual Contract Management Office (FACMO) as Executive Agent for the Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB).

(iii) Manage necessary information systems to support these requirements.

(iv) Develop common VI formats and standardization guidelines.

(6) Exercise management oversight of the Joint Visual Information Services (JVIS) consistent with DoD Directive 5040.3,⁴ in addition to the responsibilities established in paragraph (d)(5) of this section, to:

(i) Review JVIS plans, programs, actions, and taskings to assure that JVIS programs and systems accommodate operational requirements.

(ii) Serve as program review authority for JVIS-related Program Objectives Memorandum (POM) and budget submissions.

(iii) Oversee contract quality control and assurance responsibility for audiovisual (AV) productions obtained under the Federal AV contract management system.

(7) Develop and provide DoD information training requirements, policy, and guidance, and provide training and management oversight and assistance on behalf of the ASD(PA) for the Defense Information School (DINFOS) established under DoD Directive 5160.48.⁵

(8) Provide assistance to other joint-service visual information training programs.

(9) Perform other related internal information functions that the ASD(PA) may assign.

(e) The *Members of the American Forces Information Council* shall meet periodically to:

(1) Consider questions of policy and advise the ASD(PA) with respect to internal information programs.

(2) Exchange information among the membership.

§ 372.7 Relationships.

(a) In the performance of assigned functions, the Director, AFIS, shall:

(1) Coordinate actions with other DoD Components having collateral or related functions in the field of assigned responsibilities.

(2) Maintain appropriate liaison with DoD Components and other Governmental and non-Government Agencies for the exchange of information and advice on programs in the field of assigned responsibilities.

(3) Make use of established facilities and services in the Department of Defense and other Government Agencies to avoid duplication and achieve maximum efficiency and economy.

(b) Heads of DoD Components shall coordinate with the Director, AFIS, on all matters related to the mission, responsibilities, and functions of AFIS.

§ 372.8 Authority.

The Director, AFIS, is authorized to:

(a) Obtain form DOD Components, consistent with the policies and criteria of DoD Directive 7750.5, information, advice, and assistance necessary to carry out AFIS programs and activities.

(b) Communicate directly with the Military Departments and other DoD Components on matters related to AFIS responsibilities, programs, and activities.

(c) Communicate with other government agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out the functions assigned under this part.

(d) Communicate with representatives of foreign governments and commercial broadcast agencies regarding broadcast frequencies and the rights to broadcast for AFRTS outlets and activities.

(e) Exercise the administrative authorities contained in the Appendix of this part.

§ 372.9 Administration.

(a) The Director, AFIS, shall be selected by the ASD(PA).

(b) The AFIS shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense considers necessary.

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

² See footnote 1 to § 372.8(d)(4)(v).

³ See footnote 1 to § 372.8(d)(4)(v).

⁴ See footnote 1 to § 372.8(d)(4)(v).

⁵ See footnote 1 to § 372.8(d)(4)(v).

(c) The Military Departments shall assign military personnel to AFIS in accordance with approved authorizations and established procedures for assignment to joint duty.

(d) Administrative support for AFIS shall be provided by DoD Components through interservice support agreements in accordance with DoD Directive 4000.19.⁶

Appendix A—Delegations of Authority

Pursuant to the authority vested in the Secretary of Defense, and subject to the direction, authority, and control of the Secretary of Defense, and in accordance with DoD policies, Directives, and Instructions, the Director, AFIS, or, in the absence of the Director, the person acting for the Director, is hereby delegated authority, as required in the administration and operation of AFIS, to:

1. Perform the following functions in accordance with the provisions of 5 U.S.C. 7532; Executive Orders 10450, 12333, and 12356; and DoD Directive 5200.2, "DoD Personnel Security Program," December 20, 1979, as appropriate:

a. Designate any position in AFIS as a sensitive position.

b. Authorize, in case of an emergency, the appointment of a person to a sensitive position in AFIS for a limited period for whom a full field investigation or other appropriate investigation, including the National Agency Check, has not been completed.

c. Authorize the suspension, but not terminate the services, of an employee in the interest of national security in positions within AFIS.

2. Authorize and approve overtime work for AFIS civilian employees, in accordance with the provisions of 5 U.S.C. Chapter 55, Subchapter V, and applicable Office of Personnel Management regulations.

3. Develop, establish, and maintain an active and continuing Records Management program, pursuant to section 506(b) of the Federal Records Act of 1950 (44 U.S.C. 3102) and DoD Directive 5015.2, "Records Management Program," September 17, 1980.

4. Authorize the publication of advertisements, notices, or proposals in public periodicals, as required for the effective administration of AFIS, consistent with 44 U.S.C. 3702.

5. Establish and maintain, for the functions assigned, an appropriate publication system for the promulgation of common supply and service regulations, instructions, reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DoD Directive 5025.1, "Department of Defense Directives System," October 16, 1980.

6. Approve Joint Service Achievement Medals (JSAMs) for personnel assigned under the direct organizational authority of the Director, AFIS, as delegated by ASD(PA) under the provisions of Chapter 3, subparagraph D.5.c.(2), DoD 1348.33-M.

"Manual of Military Decorations and Awards," August 1985.

Linda M. Bynum,
Alternate OSD Federal Register Liaison
Officer, Department of Defense.
September 24, 1987.

[FR Doc. 87-22436 Filed 9-28-87; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Part 381

[DoD Directive 5105.31]

Defense Nuclear Agency (DNA)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This part implements selected recommendations of the Defense Science Board Task Force on DNA management, delineates the relationship of DNA to the newly created position of the Under Secretary of Defense (Acquisition) and incorporates other guidance on DNA functions and responsibilities.

EFFECTIVE DATE: March 18, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Furtner, Office of the Assistant Secretary of Defense (Comptroller), the Pentagon, Washington, DC 20301 telephone (202) 695-4281.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 381

Organization and function.

Accordingly, Title 32 is amended to add Part 381 as follows:

PART 381—DEFENSE NUCLEAR AGENCY (DNA)

Sec.

- 381.1 Reissuance and purpose.
- 381.2 Mission.
- 381.3 Organization and management.
- 381.4 Responsibilities and functions.
- 381.5 Relationships.
- 381.6 Authority.
- 381.7 Administration.

Appendix A—Delegations of Authority.

Authority: 10 U.S.C. Chapter 8.

§ 381.1 Reissuance and purpose.

Under the authority vested in the Secretary of Defense by Title 10, United States Code, this part is issued to update the responsibilities, functions, relationships, and authority of the Defense Nuclear Agency (DNA).

§ 381.2 Mission.

(a) DNA shall provide support to the Office of the Secretary of Defense (OSD), the Joint Chiefs of Staff (JCS), the Military Departments, the Unified and Specified Commands, the Defense

Agencies (hereafter referred to collectively as "DOD Components"), and other Federal Agencies on matters concerning nuclear weapons, nuclear weapons system acquisitions, nuclear weapons effects on weapons systems and forces, and such other aspects of the DOD nuclear program as may be directed by the Secretary of Defense.

(b) During wartime and international crises, in accordance with national priorities and as directed by the Chairman, Joint Chiefs of Staff (CJCS), DNS shall redirect its resources to support the JCS and the Commanders of the Unified and Specified Commands in analyzing nuclear weapons planning and action options.

§ 381.3 Organization and management.

DNA is established as a separate agency of the Department of Defense. It shall consist of a military Director, a civilian Deputy Director, and such subordinate organizational elements, as are established by the Director within resources authorized by the Secretary of Defense. The Director, DNA, reports to both the Under Secretary of Defense for Acquisition (USD(A)) and the Chairman, Joint Chiefs of Staff (CJCS), as defined in subsequent sections of this part.

§ 381.4 Responsibilities and functions.

(a) The *Director, DNA*, shall: (1) Organize, direct, and manage the DNA and all assigned resources.

(2) Maintain the national nuclear weapon stockpile data bases during peace, crisis, and war. Maintain overall surveillance and provide guidance, coordination, advice, or assistance for all nuclear weapons in DoD custody including production, composition, allocation, deployment, movement, storage, maintenance, quality assurance and reliability assessment, report procedures, and retirement.

(3) Manage the DoD nuclear weapons effects test programs.

(4) Conduct research, through exploratory development and/or proof of principle, in coordination with the Military Services, other appropriate DoD Components, and other Federal Agencies to develop technologies and techniques to improve the security and survivability of nuclear weapons systems.

(5) Provide advice and assistance on matters concerning nuclear weapons, nuclear weapons systems, effects of nuclear weapons, the technologies to determine the vulnerability and survivability of military systems and installations in accordance with DoD

⁶ See footnote 1 to § 372.6(d)(4)(v).

Instruction 4245.4¹ and related arms control matters to DoD Components and Government Agencies.

(6) Jointly manage the national nuclear test readiness program with the Department of Energy (DoE) and perform associated technical, operational, and safety planning. Maintain access to facilities necessary to resume above-ground testing.

(7) Act as the central coordinating agency within the Department of Defense on nuclear weapon stockpile data base management, nuclear effects testing, and nuclear effects research within approved policies and programs, and pertinent DoD-DoE agreements.

(8) Provide technical assistance and support to the Secretary of Defense, the Military Departments, and the JCS in developing nuclear weapon system safety, security and use-control standards, requirements, and operating procedures. Provide a member to joint DoD/DoE nuclear weapon system studies and reviews. Coordinate on proposed nuclear weapons safety rules and changes.

(9) Provide emergency response support to the DoD Components and other Federal Agencies as follows:

(i) Develop policies and procedures to respond to a nuclear weapon accident. Conduct nuclear weapon accident command post and field exercises. Maintain an Accident Advisory Team to assist the on-scene commander and support the DoD nuclear weapons accident/incident response team.

(ii) Monitor and participate in planning and exercises relating to improvised nuclear device (IND) countermeasures.

(iii) Maintain and operate a Joint Nuclear Accident Coordinating Center (JNACC) in conjunction with the DoE.

(10) Maintain and provide nuclear weapons stockpile information to the DoD Components and other Government Agencies, as required.

(11) Conduct, for the JCS, nuclear weapons technical inspections of units having responsibilities for assembling, maintaining, or storing nuclear weapon systems, their associated components, and ancillary equipment.

(12) Provide nuclear weapon quality assurance program oversight for the Department of Defense.

(13) Provide logistics management support for nuclear weapons under DoD control, including:

(i) Integrated material management functions for all specially designed and

quality controlled nuclear ordnance items, and for Military Department-designed and quality controlled nuclear ordnance items, where such management is mutually agreed upon between DNA and the appropriate Military Department, or as directed by the USD(A).

(ii) Manage that portion of the Federal Cataloging Program pertaining to nuclear ordnance items, including the maintenance of the central data bank and the publication of Federal Supply Catalogs and Handbooks for all nuclear ordnance items.

(iii) Control the standardization of nuclear ordnance items in coordination with the appropriate Military Department.

(iv) Manage a technical logistics data and information program.

(v) As Inventory Control Manager of stockpile support items, manage the DoD-DoE logistics supply interface.

(vi) Manage the DoD-DoE loan account for nuclear materials.

(14) Represent the Department of Defense in its relations with the DoE on all policy matters relating to the administration and operation of the Joint Nuclear Weapons Publication System. These policy matters shall be coordinated and approved by the Military Departments. Coordinate with DoE on Nuclear Weapon Accident Directives.

(15) In support of the Secretary of Defense and DoD Components, perform technical analyses, studies, research, and development on:

(i) Alternate arms control restraints and measures to limit nuclear tests facing the United States and the Soviet Union;

(ii) Technical and employment options for new nuclear weapons, including the relationship of advanced conventional munitions to these options;

(iii) The effects of nuclear weapons on communications, command, and control systems improvements that may be needed to ensure reliable operation of forces;

(iv) The effect of technology on nuclear force structure, operations, and political-military constraints;

(v) Technologies that would enhance the security, survivability, and effectiveness of nuclear systems at both the strategic and theater levels; and evaluation of tactics, doctrine, force postures, operations, and training in order to better direct the DNA nuclear related programs.

(vi) Techniques for assessing and evaluating alternate nuclear operations and tactics.

(16) Conduct joint programs involving, as appropriate, the Defense Advanced

Research Projects Agency (DARPA), the Military Departments, Allied Commands, and other Defense Agencies in matters regarding DNA/developed technologies. This includes test, evaluation, and demonstration of appropriate technologies.

(17) In coordination with the DoE and the Military Departments, disseminate technological information of joint interest relating to nuclear technology, development, and weapons through laboratory liaison, technical reports, and nuclear weapons technical publications. Assist in technology transfer and implementation of successful research programs into the Services and Allied Commands.

(18) Perform technical analyses, studies, and research on non-nuclear matters of critical importance to the Department of Defense where DNA has unique capabilities developed as part of its nuclear responsibilities.

(19) Through the Armed Forces Radiobiology Research Institute (AFRRI), conduct research in the field of radiobiology and related matters essential to the operational and medical support of the Department of Defense and DoD Components.

(20) Operate the Joint Atomic Information Exchange Group (JAIEG) in accordance with policy guidance furnished jointly by the Assistant to the Secretary of Defense for Atomic Energy for the Department of Defense and the Director for Military Applications for the DoE.

(21) Perform such other functions as may be assigned by the Secretary of Defense.

(b) The *Under Secretary of Defense for Acquisition* shall exercise staff supervision over the research and developmental activities, programing and budgeting, and such other activities not herein elsewhere assigned.

(c) The *Chairman, Joint Chiefs of Staff*, shall:

(1) Exercise staff supervision over the military operational aspects of DNA activities.

(2) Review and provide military advice on the adequacy of DNA efforts in nuclear weapons testing and nuclear weapons effects research that are related directly to systems employed in joint operations.

(d) The *Military Departments and other DoD Components* shall:

(1) Provide assistance within their respective fields of responsibility to the Director, DNA, in carrying out his or her assigned responsibilities and functions;

(2) Provide information, as necessary, to DNA on all programs that include, or are related to, nuclear weapons effect

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

research, nuclear weapons effects testing, or nuclear weapons accident response as well as the safety, security and survivability of nuclear weapon systems and forces.

(3) Keep the Director, DNA, informed as to the substance of major actions being coordinated with other DoD Components, the DoE and its laboratories, and other Government Agencies that relate to DNA functions; and

(4) Provide the Director, DNA, with requirements for nuclear weapons effects research and nuclear weapons effects testing, and information regarding long-term nuclear weapons development, and the security, safety and survivability of nuclear systems and forces.

§ 381.5 Relationships.

In performing assigned functions, the Director, DNA, shall:

(a) Report to the USD(A) for research and development activities, DNA programing and budgeting functions, and such other DNA functions as are otherwise herein assigned.

(b) Report to the CJCS for operational matters within JCS cognizance as well as requirements associated with the joint planning process.

(c) Coordinate actions, as appropriate, with other DoD Components and those Departments and Agencies of Government having related functions.

(d) Maintain liaison with other DoD Components and other Agencies of the Executive Branch for the exchange of information on programs and activities in the field of assigned responsibility.

(e) Use established facilities and services in the Department of Defense or other Government Agencies, whenever practicable, to achieve maximum efficiency and economy.

(f) Exploit data from nuclear tests performed by other countries to obtain information of utility in designing U.S. nuclear forces and assisting the Unified and Specified Commands in target planning.

(g) Ensure that DoD Components are kept fully informed of DNA activities.

§ 381.6 Authority.

The Director, DNA, is specifically delegated authority to:

(a) Have free and direct access to, and communication with, all elements of the Department of Defense and other Executive Departments and Agencies, as necessary, to carry out DNA functions and responsibilities.

(b) Obtain such reports, information, advice, and assistance from other DoD Components consistent with the policies

and criteria of DoD Directive 7750.5² as may be necessary for the performance of assigned functions and responsibilities.

(c) Communicate directly with appropriate personnel in the Military Departments and other DoD Components on matters related to DNA programs and activities.

(d) Establish facilities necessary to accomplish the DNA mission in the most efficient and economical manner.

(e) Exercise the administrative authorities contained in the Appendix of this part.

§ 381.7 Administration.

(a) The Director, DNA, shall be a commissioned officer of Lieutenant General or Vice Admiral rank appointed by the Secretary of Defense upon recommendation of the CJCS and USD(A). Normally, the position of Director will rotate among the Military Services.

(b) The Deputy Director, DNA, shall be a senior civilian employee of appropriate Senior Executive Service rank appointed by the Secretary of Defense upon the joint nomination of the CJCS and USD(A).

(c) DNA shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

(d) The Military Departments shall assign military personnel to DNA in accordance with approved Joint Manpower Program authorizations. Changes to these authorizations shall be coordinated with the appropriate Military Services. Procedures for such assignments shall be as agreed upon between the Director, DNA, and the individual Military Departments.

Appendix A—Delegation of Authority

Pursuant to the authority vested in the Secretary of Defense, and subject to the direction, authority, and control of the Secretary of Defense, and in accordance with DoD policies, Directives, and Instructions, the Director, DNA, or in the absence of the Director, the person acting for the Director, is hereby delegated authority as required in the administration and operation of DNA to:

1. Exercise the powers vested in the Secretary of Defense by 5 U.S.C. 301, 302(b), and 3101 pertaining to the employment, direction, and general administration of DNA civilian personnel.

2. Fix rates of pay for wage-rate employees exempted from the Classification Act of 1949 by 5 U.S.C. 5102 on the basis of rates established under the Coordinated Federal Wage System. In fixing such rates, the Director, DNA, shall follow the wage schedule established by the DoD Wage Fixing Authority.

3. Establish advisory committees and employ part-time advisors, as approved by the Secretary of Defense, for the performance of DNA functions pursuant to the provisions of 10 U.S.C. 173, 5 U.S.C. 3109(b), and the agreement between the Department of Defense and the Office of Personnel Management (OPM) on employment of experts and consultants, June 21, 1977.

4. Administer oaths of office incident to entrance into the Executive Branch of the Federal Government or any other oath required by law in connection with employment therein, in accordance with the provisions of 5 U.S.C. 2903, and designate in writing, as may be necessary, officers and employees of DNA to perform this function.

5. Establish a DNA Incentive Awards Board and pay cash awards to, and incur necessary expenses for the honorary recognition of, civilian employees of the Government whose suggestions, inventions, superior accomplishments, or other personal efforts, including special acts or services, benefit or affect DNA or its subordinate activities, in accordance with the provisions of 5 U.S.C. 4503 and applicable OPM regulations.

6. In accordance with the provisions of 5 U.S.C. 7532; Executive Orders 10450, 12333, and 12356; and 32 CFR Part 156, "DoD Personnel Security Program," December 20, 1979; as appropriate:

a. Designate any position in DNA as a "sensitive" position.

b. Authorize, in case of an emergency, the appointment of a person to a sensitive position in the DNA for a limited period of time for whom a full field investigation or other appropriate investigation, including the National Agency Check (NAC), has not been completed.

c. Authorize the suspension but not terminate the services of a DNA employee in the interest of national security.

d. Initiate investigations, issue personnel security clearances and, if necessary, in the interest of national security, suspend, revoke, or deny a security clearance for personnel assigned, detailed to, or employed by DNA. Any action to deny or revoke a security clearance shall be taken in accordance with procedures prescribed in DoD 5200.2-R, "DoD Personnel Security Program," December 1979.

7. Act as agent for the collection and payment of employment taxes imposed by Chapter 21 of the Internal Revenue Code of 1954, as amended; and, as such agent, make all determinations and certifications required or provided for under Section 3122 of the Internal Revenue Code of 1954, as amended, and Section 205(p)(1) and (2) of the Social Security Act as amended (42 U.S.C. 405(p)(1) and (2)) with respect to DNA employees.

8. Authorize and approve overtime work for DNA civilian officers and employees in accordance with the provisions of 5 U.S.C. Chapter 55, Subchapter V, and applicable OPM regulations.

9. Authorize and approve:

a. Travel for DNA civilian officers and employees in accordance with Volume II, Joint Travel Regulations.

b. Temporary duty travel for military personnel assigned or detailed to DNA in

² See footnote 1 to § 381.4(a)(5).

accordance with Volume I, Joint Travel Regulations.

c. Invitational travel to persons serving without compensation whose consultative, advisory, or other highly specialized technical services are required in a capacity that is directly related to, or in connection with, DNA activities, pursuant to the provisions of 5 U.S.C. 5703.

10. Approve the expenditure of funds available for travel by military personnel assigned or detailed to DNA for expenses incident to attendance at meetings of technical, scientific, professional, or other similar organizations in such instances where the approval of the Secretary of Defense, or designee, is required by law (37 U.S.C. 412 and 5 U.S.C. 4110 and 4111). This authority cannot be redelegated.

11. Develop, establish, and maintain an active and continuing Records Management Program, pursuant to the provisions of 44 U.S.C. 3102 and DoD Directive 5015.2,³ "Records Management Program," September 17, 1980.

12. Establish and use imprest funds for making small purchases of material and services, other than personal, for DNA, when it is determined more advantageous and consistent with the best interests of the Government, in accordance with the provisions of DoD Instruction 5100.71,⁴ "Delegation of Authority and Regulations Relating to Cash held at Personal Risk Including Imprest Funds," March 5, 1973.

13. Authorize the publication of advertisements, notices, or proposals in newspapers, magazines, or other public periodicals as required for the effective administration and operation of DNA consistent with 44 U.S.C. 3702.

14. Establish and maintain appropriate property accounts for DNA, and appoint Boards of Survey, approve reports of survey, relieve personal liability, and drop accountability for DNA property contained in the authorized property accounts that has been lost, damaged, stolen, destroyed, or otherwise rendered unserviceable, in accordance with applicable laws and regulations.

15. Promulgate the necessary security regulations for the protection of property and places under the jurisdiction of the Director, DNA, pursuant to DoD Directives 5200.8,⁵ "Security of Military Installations and Resources," July 29, 1980.

16. Establish and maintain, for the functions assigned, an appropriate publications system for the promulgation of common supply and service regulations, instructions, and reference documents, and change thereto, pursuant to the policies and procedures prescribed in DoD Directive 5025.1,⁶ "Department of Defense Directives System," October 16, 1980.

17. Enter into support and service agreements with the Military Departments, other DoD Components, or other Government Agencies, as required for the effective performance of DNA functions and responsibilities.

18. Exercise the authority delegated to the Secretary of Defense by the Administrator of the General Services Administration (GSA) with respect to the disposal of surplus personal property.

19. Enter into and administer contracts, directly or through a Military Department, a DoD contract administration services component, or other Government Department or Agency, as appropriate, for supplies, equipment, and services required to accomplish the mission of DNA. To the extent that any law or Executive Order specifically limits the exercise of such authority to persons at the Secretarial level of a Military Department, such authority shall be exercised by the appropriate Under Secretary or Assistant Secretary of Defense.

20. Lease property under the control of DNA under terms that will promote the national defense or that will be in the public interest, pursuant to the provisions of 10 U.S.C. 2667.

The Director, DNA, may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

These delegations of authority are effective immediately.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 24, 1987.

[FR Doc. 87-22435 Filed 9-28-87; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3251-2]

Standards of Performance for New Stationary Sources; Reference Method 16A Revisions; Addition of Method 16B for the Determination of Total Reduced Sulfur Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Method 16A revisions and Method 16B were proposed in the Federal Register on December 8, 1986 (51 FR 44075). This action promulgates "Method 16A Revisions; Addition of Method 16B for the Determination of Total Reduced Sulfur Emissions from Stationary Sources," which are to be added to Appendix A of 40 CFR Part 60. The intended effect is to add an alternative procedure for certifying the recovery gas used in Method 16A and to

add Method 16B as an alternative method to Method 16 for determining total reduced sulfur emissions from Kraft pulp mills.

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

EFFECTIVE DATE: September 29, 1987.

ADDRESSES: Docket. Docket No. A-86-08, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m. Monday through Friday, at EPA's Central Docket Section, South Conference Center, Room 4, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

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

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

Method 16A requires the concentration of the recovery check gas to be verified by Method 11 or by gas chromatography calibrated against permeation devices. The revision will allow an additional alternative for verifying cylinder gas concentrations and will thus increase the flexibility in choice of testing procedures. Method 16B will offer an alternative test method to Method 16. The principle of operation is similar to Method 16, yet the method is simpler to operate and less expensive.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Rather, the rulemaking would simply add an alternative test method associated with emission measurement requirements that would apply irrespective of this rulemaking.

II. Public Participation

The opportunity to hold a public hearing on January 22, 1987, at 10:00 a.m., was presented in the proposal

³ See footnote 1 to § 381.4(a)(5)

⁴ See footnote 1 to § 381.4(a)(5)

⁵ See footnote 1 to § 381.4(a)(5)

⁶ See footnote 1 to § 381.4(a)(5)

notice, but no one desired to make an oral presentation. The public comment period was from December 8, 1986, to February 23, 1987.

III. Significant Comments and Changes to the Proposed Test Method

Two comment letters were received from the proposal of the revisions and test method. The comments and the Agency's responses are summarized here along with subsequent method changes.

In the Method 16A revisions, one commenter was concerned with the accuracy and precision of the new procedure's titration analysis. The procedure warns of difficulty in observing the titration endpoint and that the method is extremely sensitive to errors in titration. The commenter recommended that the procedure be validated by a multiple operator/interlaboratory study before it is promulgated.

Evaluating a method through multiple operator/interlaboratory studies is an excellent way to establish its accuracy and precision. However, other means of evaluation that are less expensive and less labor-intensive are also effective. The accuracy and precision of the new method have been demonstrated through analyzing multiple cylinder gases of known concentrations that were certified by National Bureau of Standards reference materials. In most cases, the method will be used to verify manufacturer tag concentrations, which will have been previously determined. With this limited application, the Agency does not think that the burden of a multiple operator/interlaboratory evaluation is necessary.

The difficulties associated with the method's titration are fully discussed in the method. The potential for error is minimized when the recommended precautions are observed.

Comments were received from the developer of the method requesting revisions to the proposed method to expand its analytical range. The EPA has accepted these changes, which were considered to be minor, because they expand the method's utility to include higher concentration gases that are used for instruments that require sample dilution before analysis. The sampling system has been modified to use a critical orifice in place of the dry gas meter for sample volume measurement. The sampling provisions of Section 7.1.4 (have been expanded to increase the range of selected sample volumes and to give instructions on preparing the critical orifice. Section 7.1.7 and 7.1.8.4 have been added to discuss the critical orifice calibrations, and Section 7.1.9.4

has been added as a revised sample volume calculation.

For Method 16B, the commenter felt the method was incomplete because it did not specify a gas chromatographic column type. The column type was thought to be critical in separating interferences which could coelute with sulfur dioxide, and that inappropriate columns could cause a negative bias in the measurement.

Several available columns are acceptable for this purpose, and the system performance check of Section 4.3 serves as a quality control check. Specifications have been included as an example of one of the acceptable column types.

IV. Administrative

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

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis (RFA) in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, a RFA has not been conducted.

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

This rule does not contain any information collection requirements

subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* This rulemaking does not impose any additional emission measurement requirements on facilities affected by this rulemaking. Rather, this rulemaking adds alternative test procedures associated with emission measurement requirements that would apply irrespective of this rulemaking.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Kraft pulp mills, Reporting and recordkeeping requirements, Incorporation by reference.

Date: September 18, 1987.

Lee M. Thomas,
Administrator.

40 CFR Part 60 is amended as follows:

PART 60—[AMENDED]

1. The authority for 40 CFR Part 60 continues to read as follows:

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

2. By revising (d)(1) and (d)(3) of § 60.285 to read as follows:

§ 60.285 Test methods and procedures.

* * * * *

(d) * * *

(1) Method 16 or, at the discretion of the owner or operator, Method 16A or 16B for the concentration of TRS.

* * * * *

(3) When determining compliance with § 60.283(a)(4), use the results of Method 2, Method 16, 16A, or 16B, and the black liquor solids feed rate in the following equation to determine the TRS emission rate on an equivalent hydrogen sulfide (H₂S) basis.

$$E = (C_{\text{TRS}})(F)(Q_{\text{sd}})/\text{BLS}$$

where:

E = Mass of TRS emitted per unit of black liquor solids, g/kg (lb/ton).

C_{TRS} = Average combined concentration of TRS as determined by Method 16, 16A, or 16B during the test period, ppm.

F = 0.001417 g H₂S/m³ ppm for metric units,
= 0.08844 lb H₂S/cf ppm for English units.

Q_{sd} = Dry volumetric stack gas flow rate corrected to standard conditions, dscm/hr (dscf/hr).

BLS = black liquor solids feed rate, kg/hr (ton/hr).

* * * * *

3. In Method 16A, of Appendix A, section 7 is redesignated as section 8 and revised and a new section 7 is added to read as follows:

Appendix A—Reference Methods

* * * * *

Method 16A—Determination of Total Reduced Sulfur Emissions From Stationary Sources (Impinger Technique)

* * * * *

7. Alternative Procedures

7.1 Determination of H₂S Content in Cylinder Gases. As an alternative to the procedures specified in section 3.1.4, the

following procedure may be used to verify the concentration of the recovery check gas. The H₂S is collected from the calibration gas cylinder and is absorbed in zinc acetate solution to form zinc sulfide. The latter compound is then measured iodometrically. The method has been examined in the range of 5 to 1500 ppm. There are no known interferences to this method when used to analyze cylinder gases containing H₂S in nitrogen. Laboratory tests have shown a relative standard deviation of

less than 3 percent. The method showed no bias when compared to a gas chromatographic method that used gravimetrically certified permeation tubes for calibration.

7.1.1 Sampling Apparatus. The sampling train is shown in Figure 16A-4 and consists of the following components:

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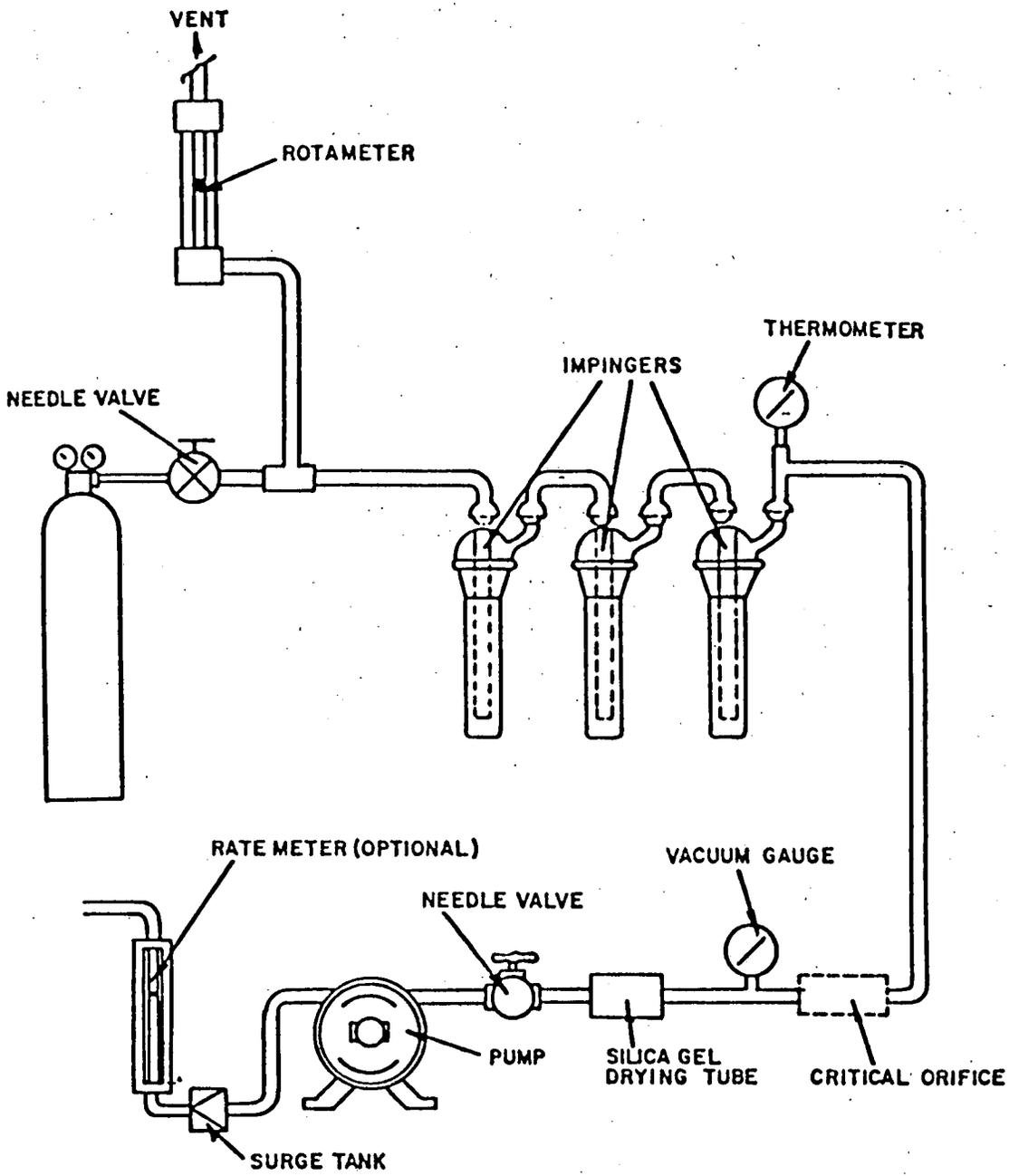


Figure 16A-4. Recovery check gas sampling train.

7.1.1.1 Sampling Line. Teflon tubing (1/4-in.) to connect the cylinder regulator to the sampling valve.

7.1.1.2 Needle Valve. Stainless steel or Teflon needle valve to control the flow rate of gases to the impingers.

7.1.1.3 Impingers. Three impingers of approximately 100-ml capacity, constructed to permit the addition of reagents through the gas inlet stem. The impingers shall be connected in series with leak-free glass or Teflon connectors. The impinger bottoms have a standard 2 1/2 ground-glass fitting. The stems are from standard 1/4-in. (0.64-cm) ball joint midget impingers, custom lengthened by about 1 in. When fitted together, the stem end should be approximately 1/2 in. (1.27-cm) from the bottom (Southern Scientific, Inc., Micanopy, Florida: Set Number S6962-048). The third in-line impinger acts as a drop-out bottle.

7.1.1.4 Drying Tube, Flowmeter, and Barometer. Same as in Method 11, Sections 5.1.5, 5.1.8, and 5.1.10.

7.1.1.5 Cylinder Gas Regulator. Stainless steel, to reduce the pressure of the gas stream entering the Teflon sampling line to a safe level.

7.1.1.6 Soap Bubble Meter. Calibrated for 100 and 500 ml, or two separate bubble meters.

7.1.1.7 Critical Orifice. For volume and rate measurements. The critical orifice may be fabricated according to Section 7.1.4.3 and must be calibrated as specified in Section 7.1.8.4.

7.1.1.8 Graduated Cylinder. 50-ml size.

7.1.1.9 Volumetric Flask. 1-liter size.

7.1.1.10 Volumetric Pipette. 15-ml size.

7.1.1.11 Vacuum Gauge. Minimum 20-in. Hg capacity.

7.1.1.12 Stopwatch.

7.1.2 Sample Recovery and Analysis Apparatus.

7.1.2.1 Erlenmeyer Flasks. 125- and 250-ml sizes.

7.1.2.2 Pipettes. 2-, 10-, 20-, and 100-ml volumetric.

7.1.2.3 Burette. 50-ml size.

7.1.2.4 Volumetric Flask. 1-liter size.

7.1.2.5 Graduated Cylinder. 50-ml size.

7.1.2.6 Wash Bottle.

7.1.2.7 Stirring Plate and Bars.

7.1.3 Reagents. Unless otherwise indicated, all reagents shall conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available. Otherwise, use the best available grade.

7.1.3.1 Water. Same as in Method 11, Section 6.1.3.

7.1.3.2 Zinc Acetate Absorbing Solution. Dissolve 20 g zinc acetate in water and dilute to 1 liter.

7.1.3.3 Potassium Bi-iodate [KH(IO₃)₂] Solution, Standard 0.100 N. Dissolve 3.249 g anhydrous KH(IO₃)₂ in water, and dilute to 1 liter.

7.1.3.4 Sodium Thiosulfate (Na₂S₂O₃) Solution, Standard 0.1 N. Same as in Method 11, Section 6.3.1. Standardize according to Section 7.1.8.2.

7.1.3.5 Na₂S₂O₃ Solution, Standard 0.01 N. Pipette 100.0 ml of 0.1 N Na₂S₂O₃ solution into a 1-liter volumetric flask, and dilute to the mark with water.

7.1.3.6 Iodine Solution, 0.1 N. Same as in Method 11, Section 6.2.2.

7.1.3.7 Standard Iodine Solution, 0.01 N. Same as in Method 11, Section 6.2.3. Standardize according to Section 7.1.8.3.

7.1.3.8 Hydrochloric Acid (HCl) Solution, 10 Percent by Weight. Add 230 ml concentrated HCl (specific gravity 1.19) to 770 ml water.

7.1.3.9 Starch Indicator Solution. To 5 g starch (potato, arrowroot, or soluble), add a little cold water, and grind in a mortar to a thin paste. Pour into 1 liter of boiling water, stir, and let settle overnight. Use the clear supernatant. Preserve with 1.25 g salicylic acid, 4 g zinc chloride, or a combination of 4 g sodium propionate and 2 g sodium azide per liter of starch solution. Some commercial starch substitutes are satisfactory.

7.1.4 Sampling Procedure.

7.1.4.1 Selection of Gas Sample Volumes. This procedure has been validated for estimating the volume of cylinder gas sample needed when the H₂S concentration is in the range of 5 to 1500 ppm. The sample volume ranges were selected in order to ensure a 35 to 60 percent consumption of the 20 ml of 0.01 N iodine (thus ensuring a 0.01 N Na₂S₂O₃ titer of approximately 7 to 12 ml). The sample volumes for various H₂S concentrations can be estimated by dividing the approximate ppm-liters desired for a given concentration range by the H₂S concentration stated by the manufacturer.

Approximate cylinder gas H ₂ S concentration (ppm)	Approximate ppm-liters desired
5 to <30.....	650
30 to <500.....	800
500 to 1500.....	1000

For example, for analyzing a cylinder gas containing approximately 10 ppm H₂S, the optimum sample volume is 65 liters (650 ppm-liters/10 ppm). For analyzing a cylinder gas containing

approximately 1000 ppm H₂S, the optimum sample volume is 1 liter (1000 ppm-liters/1000 ppm).

7.1.4.2 Critical Orifice Flow Rate Selection. The following table shows the ranges of sample flow rates that are desirable in order to ensure capture of H₂S in the impinger solution. Slight deviations from these ranges will not have an impact on measured concentrations.

Cylinder gas H ₂ S concentration (ppm)	Critical orifice flow rate (ml/min)
5 to <50 ppm.....	1500 ± 500
50 to <250 ppm.....	500 ± 250
250 to <1000 ppm.....	200 ± 50
>1000 ppm.....	75 ± 25

7.1.4.3 Critical Orifice Fabrication. Critical orifice of desired flow rates may be fabricated by selecting an orifice tube of desired length and connecting 1/8-in. x 1/4-in. (0.16-cm x 0.64-cm) reducing fittings to both ends. The inside diameters and lengths of orifice tubes needed to obtain specific flow rates are shown below.

Tube (in. OD)	Tube (in. ID)	Length (in.)	Flow rate (ml/min)	Attech catalog No. ¹
1/16.....	0.007	1.2	85	301430
1/16.....	0.01	3.2	215	300530
1/16.....	0.01	1.2	350	300530
1/16.....	0.02	1.2	1400	300230

¹ Attech Associates, 2051 Waukegon Road, Deerfield, Illinois 60015.

7.1.4.4 Determination of Critical Orifice Approximate Flow Rate. Connect the critical orifice to the sampling system as shown in Figure 16A-4 but without the H₂S cylinder. Connect a rotameter in the line to the first impinger. Turn on the pump, and adjust the valve to give a reading of about half atmospheric pressure. Observe the rotameter reading. Slowly increase the vacuum until a stable flow rate is reached, and record this as the critical vacuum. The measured flow rate indicates the expected critical flow rate of the orifice. If this flow rate is in the range shown in Section 7.1.4.2, proceed with the critical orifice calibration according to Section 7.1.8.4.

7.1.4.5 Determination of Approximate Sampling Time. Determine the approximate sampling time for a cylinder of known concentration. Use the optimum sample volume obtained in Section 7.1.4.1.

$$\text{Approximate sampling time (min)} = \frac{\text{Optimum volume} \times 1000}{\text{Critical orifice flow rate (ml/min)}}$$

7.1.4.6 Sample Collection. Connect the Teflon tubing, Teflon tee, and rotameter to the flow control needle valve as shown in Figure 16A-4. Vent the rotameter to an exhaust hood. Plug the open end of the tee. Five to 10 minutes prior to sampling, open the cylinder valve while keeping the flow control needle valve closed. Adjust the delivery pressure to 20 psi. Open the needle valve slowly until the rotameter shows a flow rate approximately 50 to 100 ml above the flow rate of the critical orifice being used in the system.

Place 50 ml of zinc acetate solution in two of the impingers, connect them and the empty third impinger (dropout bottle) and the rest of the equipment as shown in Figure 16A-4. Make sure the ground-glass fittings are tight. The impingers can be easily stabilized by using a small cardboard box in which three holes have been cut, to act as a holder. Connect the Teflon sample line to the first impinger. Cover the impingers with a dark cloth or piece of plastic to protect the absorbing solution from light during sampling.

Record the temperature and barometric pressure. Note the gas flow rate through the rotameter. Open the closed end of the tee. Connect the sampling tube to the tee, ensuring a tight connection. Start the sampling pump and stopwatch simultaneously. Note the decrease in flow rate through the excess flow rotameter. This decrease should equal the known flow rate of the critical orifice being used. Continue sampling for the period determined in Section 7.1.4.5.

When sampling is complete, turn off the pump and stopwatch. Disconnect the sampling line from the tee and plug it. Close the needle valve followed by the cylinder valve. Record the sampling time.

7.1.5 Blank Analysis. While the sample is being collected, run a blank as follows: To a 250-ml Erlenmeyer flask, add 100 ml of zinc acetate solution, 20.0 ml 0.01 N iodine solution, and 2 ml HCL solution. Titrate, while stirring, with 0.01 N $\text{Na}_2\text{S}_2\text{O}_3$ until the solution is light yellow. Add starch, and continue

titrating until the blue color disappears. Analyze a blank with each sample, as the blank titer has been observed to change over the course of a day.

Note.—Iodine titration of zinc acetate solutions is difficult to perform because the solution turns slightly white in color near the end point, and the disappearance of the blue color is hard to recognize. In addition, a blue color may reappear in the solution about 30 to 45 seconds after the titration endpoint is reached. This should not be taken to mean the original endpoint was in error. It is recommended that persons conducting this test perform several titrations to be able to correctly identify the endpoint. The importance of this should be recognized because the results of this analytical procedure are extremely sensitive to errors in titration.

7.1.6 Sample Analysis. Sample treatment is similar to the blank treatment. Before detaching the stems from the bottoms of the impingers, add 20.0 ml of 0.01 N iodine solution *through the stems* of the impingers holding the zinc acetate solution, dividing it between the two (add about 15 ml to the first impinger and the rest to the second). Add 2 ml HCl solution through the stems, dividing it as with the iodine. Disconnect the sampling line, and store the impingers for 30 minutes. At the end of 30 minutes, rinse the impinger stems into the impinger bottoms. Titrate the impinger contents with 0.01 N $\text{Na}_2\text{S}_2\text{O}_3$. Do not transfer the contents of the impinger to a flask because this may result in a loss of iodine and cause a positive bias.

7.1.7 Post-test Orifice Calibration. Conduct a post-test critical orifice calibration run using the calibration procedures outlined in Section 7.1.8.4. If the Q_{std} obtained before and after the test differs by more than 5 percent, void the sample; if not, proceed to perform the calculations.

7.1.8 Calibrations and Standardizations.

7.1.8.1 Rotameter and Barometer. Same as in Method 11, Sections 8.2.3 and 8.2.4.

7.1.8.2 $\text{Na}_2\text{S}_2\text{O}_3$ Solution, 0.1 N. Standardize the 0.1 N $\text{Na}_2\text{S}_2\text{O}_3$ solution as follows: To 80 ml water, stirring

constantly, add 1 ml concentrated H_2SO_4 , 10.0 ml 0.100 N $\text{KH}(\text{IO}_3)_2$ and 1 g potassium iodide. Titrate immediately with 0.1 N $\text{Na}_2\text{S}_2\text{O}_3$ until the solution is light yellow. Add 3 ml starch solution, and titrate until the blue color just disappears. Repeat the titration until replicate analyses agree within 0.05 ml. Take the average volume of $\text{Na}_2\text{S}_2\text{O}_3$ consumed to calculate the normality to three decimal figures using Equation 16A-5.

7.1.8.3 Iodine Solution, 0.01 N. Standardize the 0.01 N iodine solution as follows: Pipet 20.0 ml of 0.01 N iodine solution into a 125-ml Erlenmeyer flask. Titrate with standard 0.01 N $\text{Na}_2\text{S}_2\text{O}_3$ solution until the solution is light yellow. Add 3 ml starch solution, and continue titrating until the blue color just disappears.

If the normality of the iodine tested is not 0.010, add a few ml of 0.1 N iodine solution if it is low, or a few ml of water if it is high, and standardize again. Repeat the titration until replicate values agree within 0.05 ml. Take the average volume to calculate the normality to three decimal figures using Equation 16A-6.

7.1.8.4 Critical Orifice. Calibrate the critical orifice using the sampling train shown in Figure 16A-4 but without the H_2S cylinder and vent rotameter. Connect the soap bubble meter to the Teflon line that is connected to the first impinger. Turn on the pump, and adjust the needle valve until the vacuum is higher than the critical vacuum determined in Section 7.1.4.4. Record the time required for gas flow to equal the soap bubble meter volume (use the 100-ml soap bubble meter for gas flow rates below 100 ml/min, otherwise use the 500-ml soap bubble meter). Make three runs, and record the data listed in Table 1. Use these data to calculate the volumetric flow rate of the orifice.

7.1.9 Calculations.

7.1.9.1 Nomenclature.

B_{wa} = Fraction of water vapor in ambient air during orifice calibration.

C_{H_2S} = H_2S concentration in cylinder gas ppm.

K = Conversion factor = 12025 ml/eq

$$= \frac{17.03 \text{ g}}{\text{g-eq}} \quad \frac{24.05 \text{ liters H}_2\text{S}}{\text{mole H}_2\text{S}} \quad \frac{1 \text{ mole H}_2\text{S}}{34.06 \text{ g H}_2\text{S}} \quad \frac{10^3 \text{ ml}}{\text{liter}}$$

M_a = Molecular weight of ambient air saturated at impinger temperature, g/g-mole.

M_s = Molecular weight of sample gas (nitrogen) saturated at impinger temperature, g/g-mole. (For tests carried out in a laboratory where the impinger temperature is 25 °C, $M_s = 28.5$ g/g-mole and $M_a = 27.7$ g/g-mole.)

N_I = Normality of standard iodine solution (0.01 N), g-eq/liter.

N_T = Normality of standard $\text{Na}_2\text{S}_2\text{O}_3$ solution (0.01 N), g-eq/liter.

P_{bar} = Barometric pressure, mm Hg.

P_{std} = Standard absolute pressure, 760 mm Hg.

Q_{std} = Volumetric flow rate through critical orifice, liters/min.

Date _____

Critical orifice ID _____

Soap bubble meter volume, V_{sb} _____ liters

Time, Θ_{sb}

Run no. 1 _____ min _____ sec

Run no. 2 _____ min _____ sec

Run no. 3 _____ min _____ sec

Average _____ min _____ sec

Convert the seconds to fraction of minute:

Time

= _____ min + _____ Sec/60

= _____ min

Barometric pressure, P_{bar} = _____ mm Hg

Ambient temperature, t_{amb} = 273 + _____ °C

= _____ °K

Pump vacuum, = _____ mm Hg. (This should be approximately 0.4 times barometric pressure.)

$$V_{sb(std)} = \frac{(V_{sb}) (T_{std}) (P_{bar}) (10^{-3})}{(T_{amb}) (P_{std})}$$

$$= \text{_____ liters}$$

$$Q_{std} = \frac{V_{sb(std)}}{\Theta_{sb}}$$

$$= \text{_____ liters/min}$$

Table 1. Critical orifice calibration data.

$Q_{std, \text{ average}}$ = Average standard flow rate through critical orifice, liters/min.

$Q_{std, \text{ before}}$ = Average standard flow rate through critical orifice determined before H_2S sampling (Section 7.1.4.4), liters/min.

$Q_{std, \text{ after}}$ = Average standard flow rate through critical orifice determined after H_2S sampling (Section 7.1.7), liters/min.

T_{amb} = Absolute ambient temperature, °K.

T_{std} = Standard absolute temperature, 293 °K.

Θ_s = Sampling time, min.

Θ_{sb} = Time for soap bubble meter flow rate measurement, min.

$V_{m(std)}$ = Sample gas volume measured by the critical orifice, corrected to standard conditions, liters.

V_{sb} = Volume of gas as measured by the soap bubble meter, ml.

$V_{sb(std)}$ = Volume of gas as measured by the soap bubble meter, corrected to standard conditions, liters.

V_I = Volume of standard iodine solution (0.01 N) used, ml.

V_T = Volume of standard $\text{Na}_2\text{S}_2\text{O}_3$ solution (0.01 N) used, ml.

V_{TB} = Volume of standard $\text{Na}_2\text{S}_2\text{O}_3$ solution (0.01 N) used for the blank, ml.

7.1.9.2 Normality of Standard $\text{Na}_2\text{S}_2\text{O}_3$ Solution (0.1 N).

$$N_T = \frac{1}{\text{ml Na}_2\text{S}_2\text{O}_3 \text{ Consumed}} \quad \text{Eq. 16A-5}$$

7.1.9.3 Normality of Standard Iodine Solution (0.01 N).

$$N_I = \frac{N_T V_T}{V_I} \quad \text{Eq. 16A-6}$$

7.1.9.4 Sample Gas Volume.

$$V_{m(std)} = (Q_{std}) (\Theta_s) (1 - B_{wa}) \frac{M_a}{M_b} \quad \text{Eq. 16A-7}$$

7.1.9.5 Concentration of H_2S in the Gas Cylinder.

$$C_{12S} = \frac{K N_T (V_{TB} - V_T)}{V_{m(std)}} \quad \text{Eq. 16A-8}$$

8. Bibliography

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Wastewater. Washington, D.C. American Public Health Association. 1975. p. 316-317.

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3. Blosser, R.O. A Study of TRS Measurement Methods. National Council of the Paper Industry for Air and Stream Improvement, Inc., New York, New York. Technical Bulletin No. 434. May 1984. 14 p.

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5. Curtis, F., and G.D. McAlister. Development and Evaluation of an Oxidation/Method 6 TRS Emission Sampling Procedure. Emission Measurement Branch, Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. February 1980.

6. Gellman, I. A Laboratory and Field Study of Reduced Sulfur Sampling and Monitoring Systems. National Council of the Paper Industry for Air and Stream Improvement, Inc., New York, New York. Atmospheric Quality Improvement Technical Bulletin No. 81. October 1975.

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H₂S Concentration of Calibration Cylinder Gases. Draft Report. New York, New York. March 1987. 29 p.

* * * * *

4. By adding Method 16B to Appendix A to read as follows:

Appendix A—Reference Methods

* * * * *

Method 16B—Determination of Total Reduced Sulfur Emissions From Stationary Sources

1. *Applicability, Principle, Range and Sensitivity, Interferences, and Precision and Accuracy*

1.1 *Applicability.* This method is applicable to the determination of total reduced sulfur (TRS) emissions from recovery furnaces, lime kilns, and smelt dissolving tanks at kraft pulp mills, and from other sources when specified in an applicable subpart of the regulations. The TRS compounds include hydrogen sulfide (H₂S), methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.

The flue gas must contain at least 1 percent oxygen for complete oxidation of all TRS to sulfur dioxide (SO₂).

1.2 *Principle.* An integrated gas sample is extracted from the stack. The SO₂ is removed selectively from the sample using a citrate buffer solution. The TRS compounds are then thermally oxidized to SO₂ and analyzed as SO₂ by gas chromatography (GC) using flame photometric detection (FPD).

1.3 *Range Sensitivity.* Coupled with a GC utilizing a 1-ml sample size, the maximum limit of the FRD for SO₂ is approximately 10 ppm. This limit is expanded by dilution of the sample gas before analysis or by reducing the sample aliquot size. For sources with emission levels between 10 and 100 ppm, the measuring range can be best extended by reducing the sample size.

1.4 *Interferences.* The TRS compounds other than those regulated

by the emission standards, if present, may be measured by this method. Therefore, carbonyl sulfide, which is partially oxidized to SO₂ and may be present in a lime kiln exit stack, would be a positive interferent.

Particulate matter from the lime kiln stack gas (primarily calcium carbonate) can cause a negative bias if it is allowed to enter the citrate scrubber; the particulate matter will cause the pH to rise and H₂S to be absorbed before oxidation. Proper use of the particulate filter, described in Section 2.1.3 of Method 16A, will eliminate this interference.

Carbon monoxide (CO) and carbon dioxide (CO₂) have substantial desensitizing effects on the FPD even after dilution. Acceptable systems must demonstrate that they have eliminated this interference by some procedure such as eluting these compounds before the SO₂. Compliance with this requirement can be demonstrated by submitting chromatograms of calibration gases with and without CO₂ in diluent gas. The CO₂ level should be approximately 10 percent for the case with CO₂ present. The two chromatograms should show agreement within the precision limits of Section 1.5.

1.5 *Precision and Accuracy.* The GC/FPD and dilution calibration precision and drift, and the system calibration accuracy are the same as in Method 16, Sections 4.1 to 4.3.

Field tests between this method and Method 16A showed an average difference of less than 4.0 percent. This difference was not determined to be significant.

2. *Apparatus*

2.1 *Sampling.* A sampling train is shown in Figure 16B-1. Modifications to the apparatus are accepted provided the system performance check is met.

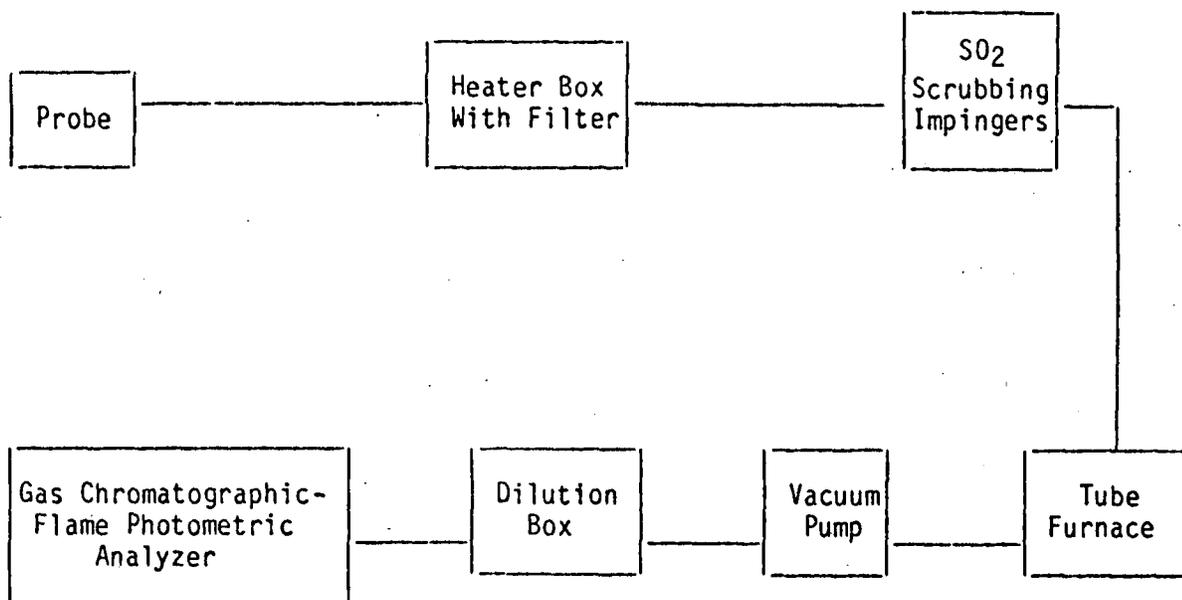


Figure 16B-1. Sampling train.

2.1.1 *Probe, Probe Brush, Particulate Filter, SO₂ Scrubber, Combustion Tube, and Furnace.* Same as in Method 16A, Sections 2.1.1 to 2.1.6.

2.1.2 *Sampling Pump.* Leakless Teflon-coated diaphragm type or equivalent.

2.2 Analysis.

2.2.1 *Dilution System (optional), Gas Chromatograph, Oven, Temperature Gauges, Flow System, Flame Photometric Detector, Electrometer, Power Supply, Recorder, Calibration System, Tube Chamber, Flow System, and Constant Temperature Bath.* Same as in Method 16, Sections 5.2, 5.4, and 5.5.

2.2.2 *Gas Chromatograph Columns.* Same as in Method 16, Section 12.1.4.1.1. Other columns with demonstrated ability to resolve SO₂ and be free from known interferences are acceptable alternatives.

3. Reagents

Same as in Method 16, Section 6, except the following:

3.1 *Calibration Gas.* SO₂ permeation tube gravimetrically calibrated and certified at some convenient operating temperature. These tubes consist of hermetically sealed FEP Teflon tubing in which a liquefied gaseous substance is enclosed. The enclosed gas permeates through the tubing wall at a constant

rate. When the temperature is constant, calibration gases covering a wide range of known concentrations can be generated by varying and accurately measuring the flow rate of diluent gas passing over the tubes. In place of SO₂ permeation tubes, National Bureau of Standards traceable cylinder gases containing SO₂ in nitrogen may be used for calibration. The calibration gas is used to calibrate the GC/FPD system and the dilution system.

3.2 *Recovery Check Gas.* Hydrogen sulfide (100 ppm or less) in nitrogen, stored in aluminum cylinders. Verify the concentration by Method 11, the procedure discussed in Section 7.1 of Method 16A, or gas chromatography where the instrument is calibrated with an H₂S permeation tube as described below. For the wet-chemical methods, the standard deviation should not exceed 5 percent on at least three 20-minute runs.

Hydrogen sulfide recovery gas generated from a permeation device gravimetrically calibrated and certified at some convenient operation temperature may be used. The permeation rate of the device must be such that at a dilution gas flow rate of 3 liters/min, an H₂S concentration in the range of the stack gas or within 20 percent of the standard can be generated.

3.3 *Combustion Gas.* Gas containing less than 50 ppb reduced sulfur compounds and less than 10 ppm total hydrocarbons. The gas may be generated from a clean-air system that purifies ambient air and consists of the following components: diaphragm pump, silica gel drying tube, activated charcoal tube, and flow rate measuring device. Gas from a compressed air cylinder is also acceptable.

4. Pretest Procedures

Same as in Method 16, Section 7.

5. Calibration

Same as in Method 16, Section 8, except SO₂ is used instead of H₂S.

6. Sampling and Analysis Procedure

6.1 *Sampling.* Before any source sampling is done, conduct a system performance check as detailed in Section 7.1 to validate the sampling train components and procedures. Although this test is optional, it would significantly reduce the possibility of rejecting tests as a result of failing the post-test performance check. At the completion of the pretest system performance check, insert the sampling probe into the test port making certain that no dilution air enters the stack through the port. Condition the entire

system with sample for a minimum of 15 minutes before beginning analysis. If the sample is diluted, determine the precise dilution factor as in Section 8.5 of Method 16.

6.2 *Analysis.* Pass aliquots of diluted sample through the SO₂ scrubber and oxidation furnace, and then inject into the GC/FPD analyzer for analysis. The rest of the analysis is the same as in Method 16, Sections 9.2.1 and 9.2.2.

7. *Post-Test Procedures*

7.1 *System Performance Check.* Same as in Method 16A, Section 4.3. Sufficient numbers of sample injections should be made so that the precision requirements of Section 4.1 of Method 16 are satisfied.

7.2 *Recalibration.* Same as in Method 16, Section 10.2.

7.3 *Determination of Calibration Drift.* Same as in Method 16, Section 10.3.

8. *Calculations*

8.1 *Nomenclature.*

C_{SO2} = Sulfur dioxide concentration, ppm.
 C_{TRS} = Total reduced sulfur concentration as determined by Equation 16B-1, ppm.
 d = Dilution factor, dimensionless.
 N = Number of samples.

8.2 *SO₂ Concentration.* Determine the concentration of SO₂ (C_{SO2}) directly from the calibration curves. Alternatively, the concentration may be calculated using the equation for the least-squares line.

8.3 *TRS Concentration.*

$$C_{TRS} = (C_{SO2}) (d) \text{ Eq. 16B-1}$$

8.4 *Average TRS Concentration.*

$$\text{Avg. } C_{TRS} = \frac{\sum_{i=1}^n C_{TRS}}{N} \text{ Eq. 16B-2}$$

9. *Example System*

Same as in Method 16, Section 12. Single column systems using the column in Section 12.1.4.1.1 of Method 16 or a 7-ft Carbosorb B HT 100 column have been found satisfactory in resolving SO₂ from CO₂.

10. *Bibliography*

1. Same as in Method 16, Sections 13.1 to 13.6.
2. National Council of the Paper Industry for Air and Stream Improvement, Inc. A

Study of TRS Measurement Methods. Technical Bulletin No. 434. New York, New York. May 1984. 12 p.

3. Margeson, J.H., J.E. Knoll, and M.R. Midgett. A Manual Method for TRS Determination. Draft available from the authors. Source Branch, Quality Assurance Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

* * * * *
 [FR Doc. 87-22291 Filed 9-28-87; 8:45 am]
 BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[FRL-3269-2]

Standards of Performance for New Stationary Sources; National Emission Standards for Hazardous Air Pollutants; Delegation of Additional Standards to Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: On March 23, 1987, the Kentucky Natural Resources and Environmental Protection Cabinet requested that EPA delegate to the Commonwealth of Kentucky the authority to implement and enforce two additional categories of Standards of Performance for New Stationary Sources (NSPS) and two additional categories of National Emission Standards for Hazardous Air Pollutants (NESHAP). These categories are listed below under "SUPPLEMENTARY INFORMATION." Since EPA's review of pertinent Kentucky laws, rules, and regulations has shown them to be adequate to implement and enforce these federal standards, the Agency has delegated authority for them to Kentucky. Affected sources are now under the jurisdiction of the Commonwealth.

EFFECTIVE DATE: May 22, 1987.

ADDRESSES: Copies of the Commonwealth's request and EPA's letter of delegation are available for public inspection at the EPA Region IV office, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365. All reports required pursuant to the newly delegated standards (listed below) should be submitted to the Kentucky Natural Resources and Environmental Protection Cabinet, Division of Air Pollution Control, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Pamela Adams of the EPA Region IV Air Programs Branch at the above address,

telephone (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: Sections 111 and 112 of the Clean Air Act authorize EPA to delegate authority to implement and enforce the Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) to any state which has adequate implementation and enforcement procedures.

On April 12, 1977, EPA delegated to the Commonwealth of Kentucky the authority for implementation of the NSPS and NESHAP that had been promulgated by EPA as of March 18, 1977. Since that date, EPA has updated the State's delegation several times. On March 23, 1987, the Kentucky Natural Resources and Environmental Protection Cabinet requested a delegation for the following recently revised or promulgated NSPS and NESHAP:

- 40 CFR Part 60, Subpart G: New Nitric Acid Plants
- 40 CFR Part 60, Subpart I: New Hot Mix Asphalt Facilities
- 40 CFR Part 61, Subpart O: Inorganic Arsenic Emissions from Primary Copper Smelters
- 40 CFR Part 61, Subpart P: Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

After a thorough review of the request, I determined that such delegation was appropriate with the conditions set forth in the original delegation letter of April 12, 1977. Therefore, the Commonwealth's request was granted in a letter dated May 22, 1987. Kentucky sources subject to the NSPS and NESHAP listed above are now under the jurisdiction of the Commonwealth of Kentucky.

I certify, pursuant to 5 U.S.C. 605(b), that this delegation will not have a significant economic impact on a substantial number of small entities.

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

Authority: Sections 111 and 112 of the Clean Air Act (42 U.S.C. 7411 and 7412).

Date: September 15, 1987.

Lee A. DeHihns, III,
 Acting Regional Administrator.

[FR Doc. 87-22379 Filed 9-28-87; 8:45 am]
 BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[FRL-3269-4]

Standards of Performance for New Stationary Sources; National Emission Standards for Hazardous Air Pollutants; Delegation of Additional Standards to Kentucky**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Delegation of authority.

SUMMARY: On December 29, 1986, the Kentucky Natural Resources and Environmental Protection Cabinet requested that EPA delegate to the Commonwealth of Kentucky the authority to implement and enforce six additional categories of Standards of Performance for New Stationary Sources (NSPS) and three additional categories of National Emission Standards for Hazardous Air Pollutants (NESHAP). These categories are listed below under "SUPPLEMENTARY INFORMATION." A thorough review of pertinent Kentucky laws, rules, and regulations has shown them to be adequate to implement and enforce these federal standards. Therefore, the Agency has delegated authority for them to Kentucky, and affected sources are now under the jurisdiction of the Commonwealth of Kentucky.

EFFECTIVE DATE: March 23, 1987.**ADDRESSES:** Copies of the Commonwealth's request and EPA's letter of delegation are available for public inspection at the EPA Region IV office, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

All reports required pursuant to the newly delegated standards (listed below) should be submitted to the Kentucky Natural Resources and Environmental Protection Cabinet, Department of Environmental Protection, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Pamela Adams of the EPA Region IV Air Programs Branch at the above address, telephone (404) 347-2864 or FTS 257-2864.**SUPPLEMENTARY INFORMATION:** Sections 111 and 112 of the Clean Air Act authorize EPA to delegate authority to implement and enforce the Standards of Performance of New Stationary Sources (NSPS) and the National Emissions Standards for Hazardous Air Pollutants (NESHAP) to any state which has adequate implementation and enforcement procedures.

On April 12, 1977, EPA delegated to the Commonwealth of Kentucky the

authority for implementation of NSPS and NESHAP that had been promulgated by EPA as of March 18, 1977. Since that date, EPA has updated the Commonwealth's delegation several times. On December 29, 1986, the Kentucky Natural Resources and Environmental Protection Cabinet requested a delegation for the following recently revised or promulgated NSPS and NESHAP:

40 CFR Part 60, Subpart N: Iron and Steel Plants (Basic Oxygen Process Furnaces)**40 CFR Part 60, Subpart Na:** Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which construction is Commenced after January 20, 1983**40 CFR Part 60, Subpart AA:** Steel Plants: Electric Arc Furnaces Constructed after 10/21/74, and on or before 8/17/83**40 CFR Part 60, Subpart AAa:** Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after 8/17/83**40 CFR Part 60, Subpart KKK:** Equipment Leaks of VOC from Onshore Natural Gas Processing Plants**40 CFR Part 60, Subpart LLL:** Onshore Natural Gas Processing: SO₂ Emissions**40 CFR Part 61, Subpart E:** Mercury**40 CFR Part 61, Subpart M:** Asbestos (Including Work Practices)**40 CFR Part 61, Subpart N:** Inorganic Arsenic Emissions from Glass Manufacturing Plants

After a thorough review of the request, EPA determined that such delegation was appropriate with the conditions set forth in the original delegation letter of April 12, 1977. The Commonwealth's request was granted in a letter dated March 23, 1987. Kentucky sources subject to the NSPS and NESHAP listed above are now under the jurisdiction of the Commonwealth of Kentucky.

I certify, pursuant to 5 U.S.C. 605(b), that this delegation will not have a significant economic impact on a substantial number of small entities.

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

Authority: Sections 111 and 112 of the Clean Air Act (42 U.S.C. 7411 and 7412).

Date: September 15, 1987.

Lee A. DeHihns, III.

Acting Regional Administrator.

[FR Doc. 87-22380 Filed 9-28-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[FRL-3269-5]

Standards of Performance for New Stationary Sources; National Emissions Standards for Hazardous Air Pollutants; Supplemental Delegation of Authority to South Carolina**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Delegation of authority.

SUMMARY: The State of South Carolina requested delegation of authority for the implementation and enforcement of additional categories of National Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP). EPA's review of South Carolina's laws, rules, and regulations showed them to be adequate for the implementation and enforcement of these federal standards, and the Agency made the delegation as requested.

EFFECTIVE DATE: These delegations of authority to South Carolina were effective July 23, 1987.**ADDRESSES:** Copies of the requests for delegation of authority and EPA's letter of delegation are available for public inspection at EPA's Region IV Office, 345 Courtland Street NE., Atlanta, Georgia 30365.

All reports required pursuant to the newly delegated standards should not be submitted to the EPA Region IV Office, but should instead be submitted to the following address: Mr. Otto E. Pearson, Chief Bureau of Air Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Beverly T. Hudson of the EPA Region IV Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365, telephone 404/347-2864 (FTS 257-2864).**SUPPLEMENTARY INFORMATION:** Section 310, in conjunction with sections 110, 111(c)(1) and 112(d)(1) of the Clean Air Act, authorizes EPA to delegate authority to implement and enforce the standards set out in 40 CFR Part 60 (NSPS) and 40 CFR Part 61 (NEAHAP).

On October 26, 1976, EPA initially delegated the authority for implementation and enforcement of the NESHAP and NSPS programs to the State of South Carolina. On June 29, 1987, South Carolina requested a delegation of authority for implementation and enforcement of the

following recently promulgated or revised NSPE categories found in 40 CFR Part 60:

1. Industrial Boilers, Subpart D_b as promulgated November 26, 1986.
2. Petroleum Refineries, Subpart J, as revised June 1, 1987.
3. Lime Manufacturing Plants, Subpart HH, as revised February 17, 1987.
4. VOL Storage Vessels, Subpart K_b, as promulgated April 8, 1987.

The State also requested authority for the following NESHAP categories set forth in 40 CFR Part 61:

1. Vinyl Chloride, Subpart F, as revised September 30, 1986.
2. Equipment Leaks (Fugitive Emission Sources), Subpart V, as revised January 21, 1986.

Action

Since review of the pertinent South Carolina laws, rules, and regulations showed them to be adequate for the implementation and enforcement of the aforementioned categories of NSPS and NESHAP, I delegated to the State of South Carolina my authority for the source categories listed above on July 23, 1987.

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

This notice is issued under the authority of sections 101, 110, 111, 112, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, 7411, 7412, and 7601).

Dated: September 21, 1987.

Joe R. Franzmathes,
Acting Regional Administrator.

[FR Doc. 87-22381 Filed 9-28-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[FRL-3269-1]

Designations of Areas for Air Quality Planning Process Attainment Status Designations; Wisconsin; Correction

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

ACTION: Direct final rulemaking; notice of correction.

SUMMARY: This notice corrects a codification error published in a direct final rulemaking on the designation of areas for air quality planning purposes for Wisconsin.

The rulemaking being corrected was in a December 15, 1981, (46 FR 61126) notice, which redesignated a subcity

portion of Milwaukee County for the pollutant Carbon Monoxide (CO).

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 886-6031.

Correction: In particular, on page 61127 of the December 15, 1981 Federal Register, in the third column, in the PART 81-Designation of Areas for Air Quality Planning Purposes [sic], the section number for "Milwaukee County" in the table "Wisconsin-CO" was incorrectly published as appearing at § 81.351. Instead, this section number should have been numbered as § 81.350. USEPA regrets any inconvenience this error has caused.

Correction of this codification error in no way affects the designation of Milwaukee, which remains as published in the table on page 61127.

Dated: September 15, 1987.

Valdas V. Adamkus,
Regional Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Wisconsin

Section 81.350 of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended. In the table of "Wisconsin-CO," the entry for Milwaukee County should be revised to read as follows:

§ 81.350 Wisconsin.

WISCONSIN-CO	
	Does not meet primary standards
Wisconsin Counties: *	X
Milwaukee:	X
North 75th Street and West Beckett Street on the east, West Perkins Avenue on the South, North 77th Street on the west and West Hope Avenue and Marion Street on the north.	X
The north boundary is West Wisconsin Avenue from 16th Street to 6th Street, the east boundary is 6th Street from Wisconsin Avenue to the Menomonee River, the south boundary is the Menomonee River, and the west boundary is 16th Street from the Menomonee River to West Wisconsin Avenue.	X
The remainder of Milwaukee County.....	X

[FR Doc. 87-22385 Filed 9-28-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 215, 230, and 253

Department of Defense Federal Acquisition Regulation Supplement; Defense Acquisition Circular (DAC) 86-5

AGENCY: Department of Defense (DoD).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule with respect to DoD Profit Policy, published in the Federal Register on Monday, August 3, 1987 (52 FR 28705), and corrected in the Federal Register on Monday, August 17, 1987 (52 FR 30687). This document also designates final rules published at 52 FR 28705, August 3, 1987, and at 52 FR 30687, August 17, 1987, as Defense Acquisition Circular (DAC) 86-5.

EFFECTIVE DATE: August 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

Charles W. Lloyd,
Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, the DoD FAR supplement is amended as set forth below:

PART 204—ADMINISTRATIVE MATTERS

1. The final rule published on August 3, 1987 (52 FR 28705) is designated as Defense Acquisition Regulatory Circular (DAC) 86-5 without change.

PART 215—CONTRACTING BY NEGOTIATION

2. The final rules published on August 3, 1987 (52 FR 28705) and on August 17, 1987 (52 FR 30687) are designated as Defense Acquisition Regulatory Circular (DAC) 86-5 with the following changes:

215.902 [Corrected]

3. Section 215.902 is amended by substituting in the third sentence of paragraph (a)(1)(i) the reference "FAR 15.805-3" in lieu of the reference "215.805-3"; by substituting in the fourth sentence of paragraph (a)(1)(i) the reference "FAR 15.804-3(b)" in lieu of the reference "215.804-3(b)"; and by adding in paragraph (S-72) between the word "or" and the word "similar" the word "a".

215.970-1 [Corrected]

4. Section 215.970-1 is amended by removing in the second line of the table following paragraph (b)(2)(i) under the heading "Contract type" the hyphen and the word "fee"; by removing in the second line of the table following paragraph (b)(2)(ii) under the heading "Contract type" the hyphen and the word "fee"; by adding in the table following paragraph (b)(2)(ii) a footnote "1" and the words "(percent)" after the heading "Normal value"; by removing from paragraph (b)(2)(iv) the hyphen and the word "fee"; by substituting in paragraph (b)(4)(ii) the reference "FAR 32.501-1" in lieu of the reference "232.501-1"; and by substituting in the second sentence of paragraph (c)(3)(i) the word "product" in lieu of the word "produce".

215.971-2 [Corrected]

5. Section 215.971-2 is amended by substituting in the first sentence the reference "FAR 31.205-10" in lieu of the reference "231.205-10".

215.972-1 [Corrected]

6. Section 215.972-1 is amended by substituting in paragraph (a) the word "objective" in lieu of the word "objectives"; and by substituting in the last sentence of paragraph (a)(1) the reference "215.970-1(a)(2)(ii)" in lieu of the reference "15.970-1(a)(2)(ii)".

215.973 [Corrected]

7. Section 215.973 is amended by substituting in the first sentence the reference "FAR 16.404-2" in lieu of the reference "216.404-2".

PART 230—COST ACCOUNTING STANDARDS

8. The final rule published on August 3, 1987 (52 FR 28705) is designated as Defense Acquisition Regulatory Circular (DAC) 86-5 without change.

PART 253—FORMS

9. The final rule published on August 3, 1987 (52 FR 28705) is designated as Defense Acquisition Circular (DAC) 86-5 without change.

[FR Doc. 87-22362 Filed 9-28-87; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Parts 204, 252, and 253**Department of Defense Federal Acquisition Regulation Supplement; Commercial and Government Entity (CAGE) Code Reporting**

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Defense Acquisition Regulatory Council has approved revisions to Subpart 204.6, and Parts 252 and 253 of the DoD FAR Supplement with respect to Commercial and Government Entity (CAGE) Code Reporting.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7266.

SUPPLEMENTARY INFORMATION:**A. Background**

The DoD FAR Supplement has been revised to provide uniform guidance concerning the completion of the DD Form 350, beginning October 1, 1987. Three data elements are being added to the contract reporting system without modification to the DD Form 350. The new data will be entered in Part E of the May 85 edition of the form in accordance with the instructions at 204.671-5(f). New Item E2, Extent Competed, must be provided with each DD Form 350 submitted. Items E3, Standard Industrial Classification (SIC) Code, and E4, Commercial and Government Entity (CAGE) Code, may be left blank in the first quarter of FY 88 if the information is not available within 3 working days after the date on which the dollars were actually obligated or deobligated by the contracting office. A related clause and a new DD Form 2051 are added.

(Note: DD Forms are not codified in the Code of Federal Regulations.)

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for public comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected parts will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 87-610D in correspondence.

C. Paperwork Reduction Act

The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR parts 204, 252, and 253

Government procurement.

Charles W. Lloyd,
Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, 48 CFR Parts 204, 252, and 253 are amended as follows:

1. The authority citation for 48 CFR Parts 204, 252, and 253 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 204—ADMINISTRATIVE MATTERS

2. Section 204.670-2 is amended by adding in alphabetical sequence the following definition:

204.670-2 Definitions.

"Commercial and Government Entity (CAGE) Code" means:

(a) A code assigned by the Defense Logistics Services Center (DLSC) to identify a contractor or manufacturer; or

(b) A code assigned by a member of the North Atlantic Treaty Organization (NATO) and maintained by DLSC.

(c) One of the above codes used in subpart 204.6 to identify contractors.

3. Section 204.670-5 is added to read as follows:

204.670-5 CAGE Codes.

(a) When a CAGE code is required from the offeror, contracting officers shall insert the provision at 252.204-7007, to request the offeror to supply its CAGE code.

(b) The contracting officer shall assist the offeror in obtaining the required contractor identification code(s).

(c) Prospective offerors may not be denied a solicitation or bid set because the offeror does not have a contractor identification code.

(d) If a CAGE code is being requested, it is the responsibility of the contracting activity to request the assignment of the CAGE code by completing Section A of the DD Form 2051—Request for Assignment of a Commercial and Government Entity (CAGE) Code. (See 253.303-70-DD-2051.) The prospective contractor will complete Section B of the form. The completed form will be submitted by the contracting activity to DLSC-FBA for processing and code assignment after it has verified the data submitted by the contractor.

4. Section 204.671-5 is amended by revising paragraph (b)(5)(iii); by removing the introductory text in paragraph (f); and by adding paragraph (f)(2) to read as follows:

204.671-5 Instructions for Completion of DD Form 350.

(b) * * *

(5) * * *

(iii) *Item B5B.* Enter the state or country code from the appropriate Federal Information Processing Standards (FIPS) Publication. FIPS 55 is used for the identification of State and state equivalents in the United States, Puerto Rico, and US possessions and territories. FIPS 10-3 is used to identify foreign countries.

(f) *Part E, DD Form 350.*

(2) *Item E2, Extent Competed.* Enter the appropriate code.

(i) *Code A—Competed Action.* Enter this code when any of the following conditions apply:

(A) Competitive procedures were used to fulfill the requirement for full and open competition (FAR 6.1);

(B) Full and open competition was provided for after exclusion of sources, in order to establish/maintain alternative sources or to set aside a procurement for small business or labor surplus area concerns (FAR 6.2);

(C) Statutory authorities for other than full and open competition were used (FAR 6.3) and more than one offer was received:

(Note: Any procurement authorized or required by statute to be awarded to a specified source, e.g., 8(a) awards; brand name commercial products for authorized resale; or awards for utilities (except telecommunications) are excluded from Code A and should be reported in Code B.)

(D) Contract action resulted from a contract awarded prior to CICA that used two-step sealed bidding, other sealed bidding, or was negotiated competitively.

(ii) *Code B—Not available for competition.* Enter this code when any of the following conditions apply to the award:

(A) Awards for utilities (excluding telecommunications) where there is no opportunity for competition;

(B) Brand name commercial products for authorized resale;

(C) Procurements authorized or required by statute to be awarded to a designated source;

(D) 8(a) awards;

(E) Foreign Military Sales/International Agreements;

(F) Other contract actions where the Deputy Assistant Secretary of Defense, Procurement (DASD(P)) has determined

that there is no opportunity for competition.

(iii) *Code C—Follow-on to competed action.* Enter this code when the action pertains to an acquisition placed with a particular contractor to continue or augment a specific competed program where such placement was necessitated by prior acquisition decisions (204.671-5(d)(5)(ii)(C)).

(iv) *Code D—Not competed.* Enter this code when Codes A, B, or C do not apply.

(3) *Item E3, Standard Industrial Classification (SIC) Code.* This item identifies the SIC of the procurement (as opposed to the SIC of the Manufacturer or Dealer). Enter the SIC codes from the OMB Standard Industrial Classification Manual. If more than one code is applicable to the action, enter the one that best identifies the product or service representing the largest dollar volume of acquisition.

(4) *Item E4, Commercial and Government Entity (CAGE) Code.* Enter the 5-position code assigned by the Defense Logistics Services Center (DLSC) that identifies the Contractor's plant or establishment receiving the award. For 8(a) awards, report the CAGE code of the performing contractor, *not* the Small Business Administration.

(i) The CAGE code is available from one or more of the following sources:

(A) The offeror's response to the solicitation;

(B) The bi-monthly H-8 publication issued by DLSC-JBDA, Federal Center, 74 N. Washington, Battle Creek, MI 49017-3084, telephone numbers: AUTOVON 932-4725, FTS 522-4725, commercial (616) 961-4725.

(C) On-line access to the CAGE file through the Defense Integrated Data System (DIDS);

(D) On-line access to the Defense Logistics Agency CAGE file through the DLA Network; or

(E) Submission of a DD Form 2051 (Request for Assignment of a CAGE Code) or electronic equivalent to DLSC-FBA at the above address. Questions concerning obtaining computer tapes, electronic updates or code assignments should be directed to DLSC. Attn: DLSC-FBA, telephone numbers: AUTOVON 932-4358, FTS 522-4358, commercial (616) 961-4358.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.204-7007 is added to read as follows:

252.204-7007 Commercial and Government Entity (CAGE) Code Reporting.

As prescribed at 204.670-5(a), insert the following provision:

Commercial and Government Entity (CAGE) Code Reporting (Oct 1987)

In the block with its name and address, the Offeror should supply the CAGE code applicable to that name and address. The CAGE code should be preceded by "CAGE:". If the Offeror does not have a CAGE code, the Offeror may request the Contracting Officer to initiate a DD Form 2051. The Contracting Activity will complete Section A and the Offeror must complete Section B of the DD Form 2051. A CAGE code will be assigned when a completed DD Form 2051 is received by the Defense Logistics Services Center, Attn: DLSC-FBA, Federal Center, 74 N. Washington, Battle Creek, MI 49017-3084. No Offeror should delay the submission of its offer pending receipt of its CAGE code. (End of provision)

PART 253—FORMS

6. Section 253.204-70 is added to read as follows:

253.204-70 Contractor Identification (DD Form 2051).

DD Form 2051, Request for Assignment of a Commercial and Government entity (CAGE) Code, is prescribed for use in requesting CAGE codes. (See 204.670-5(d).)

7. The list of forms following section 253.204-70 is amended by adding between the listing "253.303-70-DD-2025 DD Form 2025: Packaging Change Recommendation/Approval" and the listing "253.303-70-DD-2139 DD Form 2139: Subcontract Report of Foreign Purchases" the listing "253.303-70-DD-2051 DD Form 2051: Request for Assignment of a Commercial and Government Entity (CAGE) Code".

[FR Doc. 87-22363 Filed 9-28-87; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Parts 214, 215, 227, and 252**Department of Defense Federal Acquisition Regulation Supplement; Defense Acquisition Circular (DAC) 86-3**

AGENCY: Department of Defense (DoD).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule with respect to technical data, other data, computer software, and copyrights published in the *Federal Register* on Thursday, April 16, 1987 (52 FR 12387). This document also designates final rules published at 52 FR 12387, April 16, 1987, and at 52 FR 19871,

May 28, 1987, as Defense Acquisition Circular (DAC) 86-3.

EFFECTIVE DATE: May 18, 1987.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, c/o OUSD (A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, the DoD FAR Supplement is amended as set forth below:

PART 214—SEALED BIDDING

1. The final rule published on May 28, 1987 (52 FR 19871) is designated as Defense Acquisition Circular (DAC) 86-3 without change.

PART 215—CONTRACTING BY NEGOTIATION

2. The final rule published on May 28, 1987 (52 FR 19871) is designated as Defense Acquisition Circular (DAC) 86-3 without change.

PART 227—PATENTS, DATA, AND COPYRIGHTS

3. The final rule published on April 16, 1987 (52 FR 12390) is designated as Defense Acquisition Circular (DAC) 86-3 with the following changes:

4. The table of contents for Subpart 227.4 is amended by revising the title of section 227.472-1 to read "Deferred Ordering and Deferred Delivery"; by adding the words "Policy for" at the beginning of the title of section 227.472-6; and by adding the words "Procedures for" at the beginning of the title of section 227.473-2.

227.471 [Corrected]

5. Section 227.471 is amended by adding in the parenthetical phrase in the last sentence of the definition entitled "Government purposes license rights" between the word "or" and the word "the" the word "in".

227.472-1 [Corrected]

6. Section 227.472-1 is amended by substituting in the introductory paragraph the word "competing" in lieu of the word "competitive"; by substituting in the last sentence of paragraph (a) the word "alternative" in lieu of the word "alternate"; and by substituting in the title of paragraph (b) the word "interests" in lieu of the word "interest".

227.472-2 [Corrected]

7. Section 227.472-2 is amended by substituting in the fourth sentence the word "item" for the word "items".

227.472-4 [Corrected]

8. Section 227.472-4 is amended by substituting in the title the word "prohibition" in lieu of the word "prohibitions".

227.472-5 [Corrected]

9. Section 227.472-5 is corrected to read "227.472-5".

227.473-1 [Corrected]

10. Section 227.473-1 is amended by substituting in the first sentence of paragraph (a) the word "processes" for the word "processed".

227.473-3 [Corrected]

11. Section 227.473-3 is amended by substituting in the first sentence of paragraph (a) the word "data" for the word "date".

227.473-4 [Corrected]

12. Section 227.473-4 is amended by adding in paragraph (a)(2) a comma after the word "circling" and by adding in the first sentence of paragraph (c) between the word "the" and the word "contract" the words "contractor on technical data delivered to the Government under a".

227.473-5 [Corrected]

13. Section 227.473-5 is corrected by substituting in the title of paragraph (a)(4)(i) the words "fails to respond" in lieu of the word "responds"; by substituting at the end of paragraph (a)(4)(i) the number "(4)" in lieu of the number "(5)"; by substituting at the beginning of the second sentence of paragraph (a)(4)(ii)(A) the word "The" in lieu of the word "This"; and by substituting in the penultimate sentence of paragraph (a)(4)(ii)(A) the word "subcontractor" in lieu of the word "subcontract".

227.474-1 [Corrected]

14. Section 227.474-1 is amended by substituting in the second sentence the word "used" in lieu of the word "use".

227.475-2 [Corrected]

15. Section 227.475-2 is amended by substituting in the fourth sentence of paragraph (b) the word "date" in lieu of the word "data".

227.475-6 [Corrected]

16. Section 227.475-6 is amended by substituting in the last sentence the reference "paragraph 227.482(a)(1)" in lieu of the references "paragraphs 227.403-3(a) and 227.481-2(a)"; and by

substituting in the same sentence the reference "227.472" in lieu of the reference "227.403-2".

§ 227.475-8 [Corrected]

17. Section 227.475-8 is amended by substituting in the first paragraph the reference "252.227-7013" in lieu of the reference "52.227-7013".

§ 227.478-2 [Corrected]

18. Section 227.478-2 is amended by adding in the first sentence of paragraph (a)(ii) between the word "of" and the word "building" the word "a".

§ 227.478-3 [Corrected]

19. Section 227.478-3 is amended by adding in the first sentence after the word "copyrights" a comma; and by substituting in the first sentence the words "solicitations and contracts" in lieu of the words "solicitation and contracts".

§ 227.479 [Corrected]

20. Section 227.479 is amended by removing in the second sentence in paragraph (b) the comma after the word "recommended".

§ 227.480 [Corrected]

21. Section 227.480 is amended by substituting in the first sentence the word "owned" in lieu of the word "owner".

§ 227.481-1 [Corrected]

22. Section 227.481-1 is amended by adding at the end of paragraph (a)(3)(i) a semi-colon; by substituting at the end of the second sentence of paragraph (d) the words "infringement of copyright" in lieu of the words "infringement or copyright"; and by substituting in paragraph (f) the word "restrictions" in lieu of the word "restriction".

§ 227.482 [Corrected]

23. Section 227.482 is amended by adding in paragraph (a)(1)(iii) between the word "Rico," and the word "which" the word "in"; by substituting at the end of paragraph (a)(2) the reference "227.474-2" in lieu of the reference "227.474-4"; by substituting in paragraph (a)(3) the word "officer" in lieu of the word "office"; by substituting the designation of paragraph "(1)" in lieu of the designation "(1)"; by substituting in paragraph (n) the word "provision" in lieu of the word "provisions"; and by substituting in paragraph (s) the word "solicitations" in lieu of the word "solicitation".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**§ 252.227-7013 [Corrected]**

24. Section 252.227-7013 is amended by substituting in the introductory paragraph the word "at" in lieu of the word "as"; by adding at the end of paragraph (b)(1)(i) of the clause between the reference "227.477-1 (b)(2)" and the word "and" a semi-colon; by substituting in paragraph (f)(2) of the clause the words "sixty (60)" in lieu of the number "60"; by substituting in the introductory paragraph of Alternate I of the clause the reference "227.482(a)(2)" in lieu of the reference "227.474-4" and by substituting the introductory paragraph of Alternate II of the clause the reference "227.482(a)(3)" in lieu of the reference "227.475-8".

§ 252.227-7016 [Corrected]

25. Section 252.227-7016 is amended by substituting in the introductory paragraph the reference "227.482(b)" in lieu of the reference "227.412(d)".

§ 252.227-7017 [Corrected]

26. Section 252.227-7017 is amended by substituting in the last sentence of the clause between the word "royalties" and the word "charges" the word "or" in lieu of the word "of".

§ 252.227-7018 [Corrected]

27. Section 252.227-7018 is amended by substituting in the introductory paragraph the reference "227.482(d)" in lieu of the reference "227.473-4 (b)".

§ 252.227-7020 [Amended]

28. Section 252.227-7020 is amended by substituting in the third sentence of paragraph (b) of the clause the word "works" in lieu of the word "work".

§ 252.227-7021 [Corrected]

29. Section 252.227-7021 is amended by substituting in paragraph (c)(2) of the clause the word "same" in lieu of the word "some".

§ 252.227-7023 [Corrected]

30. Section 252.227-7023 is amended by adding in the introductory paragraph a comma after between the reference "227.482(i)" and the word "insert".

252.227-7024 [Corrected]

31. Section 252.227-7024 is amended by substituting in the introductory

paragraph the reference "227-482(j)" in lieu of the reference "227.482(l)".

252.227-7025 [Corrected]

32. Section 252.227-7025 is amended by substituting in the introductory paragraph the reference "227.482(k)" in lieu of the reference "227.479"; by adding in the parenthetical phrase in the last sentence of paragraph (b)(ii) between the word "or" and the word "note" the word "a"; by substituting in the undesignated paragraph between paragraph (b)(2)(iv) and paragraph (b)(2)(iv)(A) the word "shall" in lieu of the word "must"; by adding in the third sentence of the undesignated paragraph between paragraph (b)(2)(iv)(B) and paragraph (b)(3) between the word "assumes" and the word "liability" the word "no"; by removing in paragraph (c)(1)(i) between the word "agreed" and the word "will" the word "with"; by substituting in the second sentence of paragraph (c)(1)(i) following the "Restricted Rights Legend" the word "restrictions" in lieu of the word "restriction"; by substituting in the third sentence of paragraph (c)(1)(i) the word "in" in lieu of the word "on"; by substituting in paragraph (c)(3)(i) the word "or delivered" in lieu of the words "to deliver"; by adding a comma after the words "restricted rights" in the fourth sentence of paragraph (e)(1) and changing the capital "T" to a lower-case "t" in the last sentence; by substituting in the last sentence of paragraph (f)(2) the words "sixty (60)" in lieu of the number "60"; by substituting in the title of paragraph (h) the word "on" in lieu of the word "of"; by substituting in the first sentence of paragraph (h) the words "it is the policy" in lieu of the words "is is the policy"; and by substituting in the first sentence of paragraph (i)(2) the word "higher-tier" in lieu of the word "high-tier".

252.227-7026 [Corrected]

33. Section 252.227-7026 is amended by substituting in the title words "data or" in lieu of the words "data of"; and by substituting in the reference in the introductory paragraph the letter "(l)" in lieu of the number "(1)".

252.227-7027 [Corrected]

34. Section 252.227-7027 is amended by substituting in the second sentence of

the clause the word "data" in lieu of the word "date".

[FR Doc. 87-22361 Filed 9-28-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. 74-14; Notice 47]

Occupant Crash Protection and Automatic Restraint Phase-In Reporting; Correction

AGENCY: National Highway Traffic Safety Administration DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a citation contained in a final rule amending Standard No. 208, *Occupant Crash Protection*. This rule was intended to modify the head injury criteria set forth in sections S6.1.2 and S6.2.2 of Standard No. 208 by limiting the calculation of a maximum time interval of 36 milliseconds. However, as published on October 17, 1986 (51 FR 37028, at 37033), the rule amended section S6.2 of Standard No. 208. This notice corrects that error.

FOR FURTHER INFORMATION CONTACT: Stephen Kratzke, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-2992).

Accordingly, the following correction is made to page 37033 of Volume 51 of the Federal Register, in this issue of October 17, 1986:

In the second column, the sixth amendment is corrected to read as follows and the designation "S6.2" in the regulatory text is removed in order to show that the text will appear identically in two places.

6. S6.1.2. and S6.2.2 are revised to read as follows:

Issued on September 24, 1987.

Diane K. Steed,

Administrator.

[FR Doc. 87-22375 Filed 9-28-87; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register

Vol. 52, No. 188

Tuesday, September 29, 1987

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 13 Docket No. 4736S]

General Crop Insurance Regulations; Safflower Crop Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA
ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.123, to be known as the Safflower Crop Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on safflowers in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 29, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of

these regulations under those procedures. The sunset review date established for these regulations is August 1, 1992.

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

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

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

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

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

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.123, the Safflower Crop Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring safflowers.

Upon publication of 7 CFR 401.123 as a final rule, the provisions for insuring safflowers contained therein will supersede those provisions for insuring safflowers contained in 7 CFR Part 452 the Safflower Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 452 will be terminated at the end of the 1987 crop year and later removed and reserved.

FCIC will proposed to amend the title of 7 CFR Part 452 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Safflower Endorsement to 7 CFR Part 401 as outlined below, FCIC is proposing changes in section 5 of the endorsement as follows:

1. Add unit division guidelines and add a clause to specify that division of units may result in the insured paying additional premium for guideline unit division in accordance with actuarial studies which show an increased risk when units are divided. Add language to specify that nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your yield for the purpose of determining the guarantee for the unit.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the *Federal Register*. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations; Safflower crop endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:
Authority: Secs. 508, 518, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).
2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.123 Safflower Seed Crop

Endorsement, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.123 Safflower seed crop endorsement.

The provisions of the Safflower Seed Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Safflower Seed Crop Endorsement

1. Insured crop.

a. The crop insured will be safflower seed ("safflowers").

b. In addition to the safflowers not insurable in section 2 of the general crop insurance policy, we do not insure any safflowers on which safflowers, sunflowers, dry beans, soybeans, mustard, rapeseed, or lentils have been grown the preceding crop year.

2. Causes of loss.

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

- a. Adverse weather conditions;
- b. Fire;
- c. Insect infestation;
- d. Plant disease;
- e. Wildlife;
- f. Earthquake;
- g. Volcanic eruption; or
- h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or subsection 9 of the general policy.

3. Annual Premium.

The annual premium is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

4. Insurance period.

The calendar date for the end of insurance period is October 31 of the calendar year in which the safflowers are normally harvested.

5. Unit division.

Safflower acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium as provided for by the actuarial table and if for each proposed unit you maintain written verifiable records of planted acreage and harvested production for at least the previous crop year; and either

a. Acreage planted to insured Safflowers is located in separate legally identifiable sections or, in the absence of section descriptions the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the section or Farm Serial Number are clearly identified, and the insured acreage can be easily determined; and

(2) The safflowers are planted in such a manner that the planting pattern does not

continue into the adjacent section or Farm Serial Number; or

b. Acreage planted to safflowers is located in a single section or ASCS Farm Serial Number and consists of acreage on which both an irrigated and nonirrigated practice are carried out, provided:

- (1) Safflowers planted on irrigated acreage does not continue into nonirrigated acreage in the same rows or planting pattern (Nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your yield for the purpose of determining the guarantee for the unit.); and
- (2) Planting, fertilizing and harvesting are carried out in accordance with recognized good irrigated and nonirrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined for the purpose of calculating an indemnity.

6. Notice of damage or loss.

The representative samples of unharvested safflowers as required in section 8 of the general crop insurance policy will be at least 10 feet wide and the entire length of the field.

7. Claim for indemnity.

a. The indemnity will be determined on each unit by:

- (1) Multiplying the insured acreage by the production guarantee;
- (2) Subtracting from that result the total production of safflowers to be counted;
- (3) Multiplying the remainder by the price election; and
- (4) Multiplying this result by your share.

b. The total production (in pounds) to be counted for a unit will include all harvested and appraised production.

(1) Mature safflower production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 8.0 percent.

(2) Mature safflower production will be adjusted for quality when, due to insurable causes, such production has a test weight below 35 pounds per bushel or has seed damage in excess of 25 percent as determined by a grader licensed to grade safflowers by the Federal Grain Inspection Service.

(3) Mature safflower production which is eligible for quality adjustment, due to insurable causes, will be adjusted by:

(a) Dividing the value per pound of damaged safflowers by the average market price per pound for undamaged safflowers; and

(b) Multiplying the result by the number of pounds of such safflowers.

For the purpose of this insurance, the applicable price for damaged safflowers will be not less than 50 percent of the average market price for undamaged safflowers.

(4) Any harvested production from other volunteer plants growing in the safflowers will be counted as safflowers on a weight basis.

(5) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any appraised production on unharvested acreage.

(6) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of safflowers becomes general in the county and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

8. Cancellation and termination date.

The cancellation and termination date for all states is April 15.

9. Contract changes.

The date by which contract changes will be available in your service office is December 31 preceding the cancellation date.

10. Meaning of terms.

a. "Harvest" means the completion of combining or threshing of safflowers on the unit.

b. "Value per pound of damaged safflowers" means the value of the damaged safflowers (test weight below 35 pounds per bushel or seed damage in excess of 25 percent) at the local market but not less than 50 percent of the average market price for undamaged safflowers.

Done in Washington, DC, on September 10, 1987.

E. Ray Fosse,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-22343 Filed 9-28-87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. No. 14 Doc. No. 4766S]

General Crop Insurance Regulations; Sunflower Crop Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.124, to be known as the Sunflower Crop Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on sunflowers in an endorsement to the general crop insurance policy which contains the standard terms and

conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 29, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1992.

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

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

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

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

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

Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.124, the Sunflower Crop Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring sunflowers.

Upon publication of 7 CFR 401.124 as a final rule, the provisions for insuring sunflowers contained therein will supersede those provisions for insuring sunflowers contained in 7 CFR Part 428 the Sunflower Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 428 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 428 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Sunflower Endorsement to 7 CFR Part 401 as outlined below, FCIC is proposing changes in section 5 as follows:

1. Add unit division guidelines and add a clause to specify that division of units may result in the insured paying additional premium for guideline unit division in accordance with actuarial studies which show an increased risk when units are divided. Add language to specify that nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your yield for the purpose of determining the guarantee for the unit.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the *Federal Register*. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Sunflower crop endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation proposes to amend the General Crop

Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 508, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.124 Sunflower Seed Crop Endorsement, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.124 Sunflower seed crop endorsement.

The provisions of the Sunflower Seed Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation Sunflower Seed Crop Endorsement

1. Insured crop.

a. The crop insured will be sunflower seed ("sunflowers").

b. Unless otherwise provided by the actuarial table, insurance will attach only on acreage initially planted in rows far enough apart to permit cultivation; but, if such insured acreage is destroyed and replanted by broadcasting, drilling, or in rows too close to permit cultivation, it will be considered insured acreage.

2. Causes of loss.

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

- a. Adverse weather conditions;
- b. Fire;
- c. Insects;
- d. Plant disease;
- e. Wildlife;
- f. Earthquake;
- g. Volcanic eruption; or
- h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general policy.

Annual premium.

a. The annual premium is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1984 crop year under the terms of the experience table contained in the sunflower policy in effect for the 1985 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1990 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

4. Insurance period.

The calendar date for the end of insurance period is November 30 of the calendar year in which the sunflowers are normally harvested.

5. Unit division.

Sunflower acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium as provided for by the actuarial table and if for each proposed unit you maintain written verifiable records of planted acreage and harvested production for at least the previous crop year; and either

a. Acreage planted to insured Sunflowers is located in separate legally identifiable sections or, in the absence of section descriptions the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the section of Farm Serial Number are clearly identified, and the insured acreage can be easily determined; and

(2) The safflowers are planted in such a manner that the planting pattern does not continue into the adjacent section or Farm Serial Number; or

b. The acreage planted to sunflowers is located in a single section or Farm Serial Number and consists of acreage on which both an irrigated and nonirrigated practice are carried out, provided:

(1) Sunflowers planted on irrigated acreage does not continue into nonirrigated acreage in the same rows or planting pattern (Nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your yield for the purpose of determining the guarantee for the unit.); and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized irrigated and nonirrigated farming practices for the area.

If you have a loss of any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

6. Notice of damage or loss.

The representative samples of unharvested sunflowers as required in section 8 of the general crop insurance policy will be at least 10 feet wide and the entire length of the field.

7. Claim for indemnity.

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of sunflowers to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

b. The total production (in pounds) to be counted for a unit will include all harvested and appraised production.

(1) Mature sunflower production (quantity) which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 10 percent; or

(2) Mature sunflower production which, due to insurable causes, has a test weight below 25 pounds per bushel for oil type sunflowers or below 22 pounds per bushel for non-oil type sunflowers will be adjusted by:

(a) Dividing the value per pound by the price per pound of No. 2 sunflowers; and

(b) Multiplying the result by the number of pounds of insured sunflowers.

The applicable price for No. 2 sunflowers will be the local market price on the earlier of the day the loss is adjusted or the day the sunflowers are sold.

(3) Any harvested production from other crops growing in the sunflowers will be counted as sunflowers on a weight basis.

(4) Appraised production to be counted will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good sunflower farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any unharvested production or harvested or unharvested acreage.

(5) Any appraisal we have made on insured acreage and given written consent for that acreage to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of sunflowers becomes general in the county and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

8. Cancellation and termination date.

The cancellation and termination date for all states is April 15.

9. Contract changes.

The date by which contract changes will be available in your service office will be December 31 preceding the cancellation date.

10. Meaning of terms.

a. "Harvest" means the completion of combining or threshing of sunflowers on the unit.

b. "Replanting" means performing the cultural practices necessary to replant insured acreage to sunflowers.

Done in Washington, DC, on September 10, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-22342 Filed 9-28-87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 452

[Amdt. No. 1; Doc. No. 4746S]

Safflower Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Safflower Crop Insurance Regulations (7 CFR Part 452), effective for the 1988 crop year. The intended effect of this proposed rule is to maintain the effectiveness of the present Safflower Crop Insurance Regulations only through the 1987 crop year. It is proposed in a separate document that the provisions currently contained in this Part will be issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations as § 401.123, Safflower Endorsement, effective for the 1988 and succeeding crop years. 7 CFR Part 401 is a standard set of regulations and a master policy for insuring most crops which substantially reduces: (1) The time involved in amendment revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

DATES: Written comments, data, and opinions on this proposed rule must be submitted not later than October 29, 1987, to be sure of consideration.

ADDRESSES: Written comments, data, and opinions on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250. Written comments will be available for public inspection in the Office of the Manager, Room 4090 South Building, U.S. Department of Agriculture, Washington, DC during regular business hours, Monday through Friday.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date

established for these regulations is November 1, 1991.

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

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

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

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

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

Background

FCIC has published over 40 policies to cover insurance on that many different crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC proposes to publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter

IV will be terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 452 will be effective only through the end of the 1987 crop year, FCIC herein proposes to amend the subpart heading of these regulations to specify that such will be the case.

It is proposed that the new Safflower Endorsement will be published as an endorsement to 7 CFR Part 401 § 401.123, Safflower Endorsement), and become effective for the 1988 and succeeding crop years. Upon final publication, the provisions of the Safflower Crop Insurance Regulations, now contained in 7 CFR Part 452, would be superseded. Therefore, FCIC proposes to amend the subpart heading to provide that 7 CFR Part 452 be effective for the 1987 crop year.

List of Subjects in 7 CFR Part 452

Crop insurance, Safflower.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation proposes to amend the Subpart heading to the Safflower Crop Insurance Regulations (7 CFR Part 452), as follows:

PART 452—[Amended]

1. The Authority citation for 7 CFR Part 452 continues to read as follows:

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

2. The Subpart heading in 7 CFR Part 452 is revised to read as follows:

Subpart—Regulations for the 1987 Crop Year.

Done in Washington, DC on September 2, 1987.

E. Ray Fosse,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-22346 Filed 9-28-87; 8:45 am]

BILLING CODE 3410-08-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Union Field of Membership and Chartering Policy

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments.

SUMMARY: The NCUA Board is considering certain changes to its policies on chartering new Federal

credit unions (FCU's) and amendments to the charters of existing Federal credit unions. The Board requests public comment on these changes. Specifically, the Board requests comment on whether it should establish a standard Federal credit union charter amendment to permit Federal credit unions to add occupational groups of 300 or less to their fields of membership without prior NCUA approval. The Board also seeks comment on whether the minimum number of potential members for a new charter should be increased and whether Investigation Report Forms for FCU charter applicants should be revised.

DATE: Comments must be received on or before November 27, 1987.

ADDRESS: Send comments to Becky Baker, Secretary, NCUA Board, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: H. Allen Carver, NCUA, Regional Director, Region IV, 230 S. Dearborn, Suite 3346, Chicago, Ill. 60604, telephone: (312) 886-9697 or Hattie Ulan, NCUA, Office of General Counsel, 1776 G Street, NW., Washington, DC 20456, telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: NCUA's Interpretive Ruling and Policy Statement 84-1 (IRPS 84-1) [see 49 FR 46536, Nov. 27, 1984], entitled Membership in Federated Credit Unions, is the principal directive for NCUA chartering and field of membership policy. For the past year, the chartering staffs of NCUA's Regional offices have reviewed NCUA's chartering and field of membership policies. As a result of that review, the NCUA Board requests comments on the proposed changes described below. If, after reviewing the comments, the Board determines to adopt final changes, a new Interpretive Ruling and Policy Statement will be issued that either supplements IRPS 84-1 or incorporates and supersedes it.

Charter Amendments—Field of Membership Expansions—Occupational Groups

Section 109 of the FCU Act (12 U.S.C. 1759) states, in part, that FCU membership "shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community or rural district * * *." The NCUA Board has interpreted the first part of this provision to allow more than one occupational or associational group to be included in the same field of membership on the condition that each group has its own common bond (see

IRPS 84-1). This policy is known as the select group field of membership expansion policy. As noted in IRPS 84-1, the addition of any occupational or associational group must be approved by the appropriate NCUA Regional Director.

A significant number of credit unions have used the select group expansion policy to broaden their base of operations and extend credit union services to new members. It is estimated that 78 percent of all select group expansions have involved groups of under 300 potential members. These expansions have brought credit union service to thousands of new members.

The NCUA Board believes the procedures currently being followed can be simplified to further facilitate select group expansions. Comment is requested on whether the NCUA Board should adopt a general charter amendment to allow FCU's to expand their fields of membership to select occupational groups of less than 300 persons within the FCU's operational area (defined as within 25 miles of the FCU's main or any branch office) without the prior approval of the appropriate NCUA Regional Director. The amendment would be limited to occupational groups since these can readily be identified by FCU's and NCUA. An FCU would be required to apply to the Regional Director to adopt the general field of membership charter amendment. Approval of the amendment would be based on the overall financial and operational soundness of the FCU. An FCU would generally have to possess a CAMEL rating of 1 or 2 to qualify. Once NCUA approved the amendment for a particular FCU, the FCU could add select occupational groups of 300 or less to its field of membership without further action on the part of NCUA. Select groups would apply in writing to the FCU stating the name of the group, its location, number of employees, and a statement that credit union service is not available to the group. The FCU would maintain a permanent file for review by NCUA during examinations on all written requests from groups added to its field of membership pursuant to this amendment. NCUA would reserve the right to revoke or suspend the amendment for any FCU and would notify the FCU in writing of such revocation or suspension. Field of membership expansion requests for occupational groups exceeding 300 and for all associational groups would continue to be handled by submitting the request to the NCUA Regional Director for approval. (A// field of

membership expansion requests by FCU's without the standard charter amendment would continue to be handled by submitting the request to the NCUA Regional Director for approval.)

Chartering Standards—All FCU's— Minimum Membership

NCUA requires that organizers of an FCU show that a minimum number of potential members exists before an FCU can be chartered. These potential member requirements are found in NCUA's 1980 *Chartering and Organizing Manual for Federal Credit Unions* and are as follows: 200 employees for an occupational charter; 300 members for an associational charter, and 1000 residents for a community charter. Experience has shown that these minimums are unrealistically low in today's financial environment.

A minimum potential membership base is necessary if an FCU is to have a realistic chance of becoming a viable financial institution. The NCUA Board believes that, as a guideline, the minimum potential base should be 2,000 members for all three types of charters. This would not preclude new charters for groups that fall below the minimum, but it would require the organizers to substantiate that a smaller group has the ability to support and operate a successful credit union and provide needed and beneficial services to its members. In other words, the economic advisability of establishing the credit union would become a more critical factor for a group that does not meet the minimum guideline. The NCUA Board is therefore requesting comment on whether the minimum potential membership should be raised to 2,000 for all types of charters.

Investigation Report Forms

Currently, a separate Investigation Report Form exists for each type of FCU charter (NCUA Forms 4001, 4002, and 4003). The NCUA Board is considering replacement of the three forms with one form and revision to place greater emphasis on proof of economic feasibility. The revised form would require a survey of potential membership interest and pledges to participate in the proposed FCU. Further, the Board believes that a thorough business plan, as well as a formal investigation of the subscribers, prospective officials and key employees, should be required for every FCU charter applicant. The NCUA Board request comment on these proposed policy changes.

By the National Credit Union
Administration Board on September 9, 1987.
Becky Baker,
Secretary of the Board.
[FR Doc. 87-22413 Filed 9-28-87; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 6

[Notice No. 643]

Cost Adjustment Factor; "Tied House"

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Current regulations permit industry members to provide certain things of value to retailers, subject to fixed dollar limitations. Further, by regulation, these dollar limitations are adjusted *annually*, based on changes in the Bureau of Labor Statistics' consumer price index (CPI). Since the dollar limitation adjustments over the past several years have been minimal, and in order to prevent confusion within the industry as to what the specific dollar limitations are, ATF is proposing to amend the regulations by providing that the cost adjustment would be made when the one year change or the multiyear change in the CPI, from December to December, would require the previously published dollar limitation to be adjusted by at least ten percent.

DATE: Written comments must be received on or before October 29, 1987.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attn: Notice No. 643.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226, (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

Section 5(b)(3) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(b)(3), prohibits industry members from "furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services, or other thing of value * * *".

assuming all other elements of the statute are present. This section goes on to state, however, that the Secretary of the Treasury may, by regulation, provide exceptions to these inducements.

The exceptions to section 5(b)(3) are found in 27 CFR Part 6, "Tied-House." Industry members may provide certain things of value to retailers, subject to the conditions and limitations prescribed in Subpart D of Part 6. In that regard, industry members who wish to furnish, give, rent, loan, or sell product displays (e.g., wine racks, bins, etc.) or retailer advertising specialties (e.g., trays, coasters, etc.) to retailers are subject to dollar limitations specified in §§ 6.83 and 6.85, respectively. Industry members making payments for advertisements in programs or brochures issued by retailer associations at a convention or trade show are also subject to dollar limitations, as prescribed in § 6.100.

On September 23, 1980, ATF published a final rule in the *Federal Register*, T.D. ATF-74 (45 FR 63242), providing for, among other things, a new § 6.82. This section authorized adjustments to the dollar limitations prescribed in §§ 6.83, 6.85, and 6.100. The adjustments would be made on an annual basis, and would be determined by a "cost adjustment factor" equal to the change in the Bureau of Labor Statistics' consumer price index. Adjusted dollar limitations are established each January using the consumer price index for the preceding December.

Currently, the dollar limitation for "Product Displays" (§ 6.83(c)) is \$128.00 per brand. Similarly, the dollar limitation for "Retailer Advertising Specialties" (§ 6.85(b)) is \$63.00 per brand, and the "Participation in Retail Association Activities" (§ 6.100(e)) is \$128.00 per year. These adjusted dollar limitations were enumerated in the March 4, 1987 issue of the *Federal Register* (52 FR 6644).

The dollar limitation adjustments are published annually in the *Federal Register*, as a General Notice. Unfortunately, since the adjustments are published as a notice, and not as a final rule (Treasury decision), they do not appear in the annually updated revision of the Code of Federal Regulations (CFR). Thus, ATF believes that there may be confusion within the industry as to what the current dollar limitations are. The dollar limitations prescribed for §§ 6.83, 6.85, and 6.100 of the most recent edition of the CFR have not been changed since they were established back in September 1980. If the proposed amendments are adopted, ATF will then amend the applicable regulations, as necessary, to reflect the revised dollar limitations. Thus, the current dollar

limitations will appear in the annually updated revision of the CFR.

In addition, over the past several years the annual change in the consumer price index has been minimal to where, most recently, it was only 1.1 percent higher in December 1986 than in December 1985.

With the above in mind, ATF is proposing to amend section 6.82, by providing that the cost adjustment would be made when the one year change or the multiyear change in the CPI, from December to December, would require the previously published dollar limitation to be adjusted by at least ten percent.

For example, the consumer price index for December 1986 was 331.1, 1.1 percent higher than in December of the preceding year. The dollar limitations in §§ 6.83, 6.85, and 6.100 were adjusted accordingly, to \$128, \$63, and \$128, respectively. If adopted as proposed, a cost adjustment would be made when the consumer price index changed at least ten percent. Thus, when the CPI changed to 364.2 (ten percent above 331.1), or 298.0 (ten percent less than 331.1), the dollar limitations in §§ 6.83, 6.85, and 6.100 would be increased, or decreased, by ten percent.

In addition, the dollar limitation would be rounded to the nearest dollar. For example, if the dollar amount was calculated to be \$140.80, it would then be rounded up to \$141.

Further, if the one year change or multiyear change in the CPI exceeds ten percent, the dollar limitation would be adjusted accordingly. Thus, if the one year change or multiyear change in the CPI was 12%, the dollar limitation amounts prescribed in §§ 6.83, 6.85, and 6.100 would be adjusted by 12%.

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this proposal is not a major rule since it will not result in:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (c) 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.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5

U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation

ATF requests comments from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Disclosure

Copies of this notice and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Disclosure Branch, Room 4412, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The author of this document is James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 6

Advertising, Alcohol and alcoholic beverages, Antitrust, Credit, and Trade practices.

Authority and Issuance

27 CFR Part 6—"TIED-HOUSE" is amended as follows:

PART 6—[AMENDED]

Paragraph 1. The authority citation for 27 CFR Part 6 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 6.82 is amended by revising the second sentence in paragraph (a) to read as follows:

§ 6.82 Cost Adjustment factor.

(a) *General.* * * * The Director, Bureau of Alcohol, Tobacco and Firearms, shall establish the adjusted dollar limitation when the adjusted one year change or multiyear change (as determined by a series of cost adjustment factors) would require the previously published dollar limitation to be adjusted by at least ten percent.

* * * * *

Signed: August 28, 1987.

Stephen E. Higgins,
Director.

Approved: September 16, 1987.

John P. Simpson,
Acting Assistant Secretary (Enforcement).

[FR Doc. 87-22307 Filed 9-28-87; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[Notice No. 644; Re: Notice No. 620]

Stags Leap District Viticultural Area; Public Hearing

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of a public hearing on a proposed rule.

SUMMARY: This notice announces the time and place of a public hearing to be held by the Bureau of Alcohol, Tobacco and Firearms concerning the establishment of a viticultural area in Napa County, California, to be known as "Stags Leap District." In Notice No. 620 (52 FR 4350) published in the *Federal Register* on February 11, 1987, ATF

detailed a proposal for the establishment of this viticultural area and requested comments. In consideration of the comments received, ATF has determined that the public interest would be best served by the holding of a public hearing on this matter. The purpose of the hearing is to gather additional information and to receive evidence with respect to the establishment of this viticultural area, the proposed boundaries, and other possible boundaries.

DATES: The hearing will be held on December 1 and 2, 1987, at 9:30 a.m. [an evening session may be held if necessary at 7:00 p.m.].

Persons desiring to make oral comments at the hearing should submit a letter notifying ATF of their intent to comment on or before November 6, 1987. Written comments must be received on or before December 15, 1987.

ADDRESS: The hearing will be held at the: Veterans Home of California (Lincoln Auditorium—Lee Lounge), Veterans Home Station, Yountville, CA 94599.

Letter notifications and written comments are to be submitted to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attn: Notice No. 644.

FOR FURTHER INFORMATION CONTACT: Jim Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, (202-566-7626).

SUPPLEMENTARY INFORMATION:**Background**

On February 11, 1987, ATF published a notice of proposed rulemaking, No. 620 (52 FR 4350), in the *Federal Register*. In the notice, a proposal was made for the establishment of a viticultural area in Napa County, California, to be known as "Stags Leap District."

As specified in the notice, the proposed viticultural area is located east of the city of Yountville, and approximately seven miles north of the city of Napa. It is bounded on the north by a group of adjacent hills that are located just below the Grant Body (Yountville Cross) Road. The western boundary is the Napa River, and the eastern boundary is the Stags Leap promontory and its adjacent hills.

In response to the notice of proposed rulemaking, ATF received two comments. One comment, submitted by Mr. Stanley Anderson, a winery and vineyard owner, included a request to extend the northern boundary some 500 yards, to the Yountville Cross Road. Mr. Anderson's comment included letters of

support from several vineyard owners who are also located in the area just south of the Yountville Cross Road. With the exception of the northern boundary, Mr. Anderson supported the other boundaries as proposed in the notice.

Hearing

Based on the information presented in the comments, it is apparent that disagreement exists on a boundary for the viticultural area. In addition, ATF desires to obtain more information on the establishment of this viticultural area, the proposed boundaries, and other possible boundaries.

For these reasons, ATF has determined that a hearing is necessary and would serve the public interest. The purpose of the hearing is to obtain evidence for the record and to afford interested parties an opportunity to express their views. Evidence obtained and views expressed will be considered in the preparation of any final rule on this matter.

Participation

Any person desiring to participate in the hearing should notify ATF by submitting a letter specifying the name, address and daytime telephone number of the individual who will present oral comments. Any preference a person may have as to the time of day for presentation of comments should also be stated. The letter must be accompanied by an outline which briefly summarizes the topics the commenter will discuss and the information to be presented. Each topic to be discussed should be separately numbered and each numbered topic should specify the information to be presented. Assurance of having the opportunity to be heard is given only to those persons notifying ATF prior to the scheduling cutoff date of November 6, 1987.

Any person unable to attend the hearing or who prefers not to present oral comments may submit written comments before or after the hearing. ATF will accept written comments until December 15, 1987. In written comments, each topic to be discussed should be separately numbered and each numbered topic should specify the factual basis supporting the views, data, or arguments presented. All written comments received will be considered in the development of a decision on this matter.

General Information on Hearing Procedures

The hearing will be conducted under the procedural rules contained in 27 CFR 71.41(a)(3) and will be open to the public, subject to the limitations of space. In the event attendance exceeds available seating space, persons scheduled to present oral comments will be given preference in respect to admission. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. Commenters will not be permitted to trade their time to obtain a longer presentation period. However, the hearing officer may allow any person additional time after all other commenters have been heard. To the extent that time is available after presentation of oral comments by those who are scheduled to comment, others will be given an opportunity to be heard.

In order to insure that ATF will have the full benefit of their views even if time constraints limit an oral presentation, persons presenting oral comments are urged to supplement their oral statement with a more complete written statement. A written statement submitted to the hearing officer at the time of presentation of the oral statement will be considered part of the hearing record.

After making an oral presentation, a person should be prepared to answer questions from the hearing panel on not only the topics presented but also on matters relating to any written comments which he or she has submitted. Other persons will not be permitted to question a commenter. However, questions may be submitted, in writing, to the hearing officer who will evaluate their relevance. If the hearing officer determines that elicitation of further discussion would be beneficial, they may be presented to a commenter for a response.

Persons will be scheduled, if possible, according to the time preference mentioned in their letter notification to ATF. ATF will confirm by telephone the time a person is scheduled to present oral comments. A letter notification received by ATF prior to the cutoff date ensures that a person will be scheduled to comment. Letter notifications received after the cutoff date and up to one (1) working day preceding the hearing, will be honored to the extent practicable on a first-come-first-serve basis. Any scheduled commenter not present at the hearing when called will lose his or her place in the scheduled order, but will be recalled after all other scheduled commenters have been heard.

ATF will prepare an agenda listing the persons scheduled to comment and copies will be available at the hearing. In addition, copies of the petitions and all received written comments will be available at the hearing for public inspection.

Comments

Any person participating in the hearing or submitting written comments may present such data, views, or arguments as they desire. Comments that provide the factual basis supporting the views or suggestions presented will be particularly helpful in developing a reasoned regulatory decision on this matter. However, comments consisting of mere allegations or denials are counterproductive to the rulemaking process.

ATF specifically requests that commenters consider making comments on the following questions:

1. What are the historical and current boundaries (north, south, east, west) of the area known as "Stags Leap District?"

2. Why, and how, should the boundaries as proposed in Notice No. 620 be modified?

3. What geographical features, particularly in the north, support the boundaries as proposed in Notice No. 620; as suggested by Mr. Anderson, or any other boundaries?

4. Is there evidence that the name of the proposed viticultural area is locally or nationally known as including the area north to the Yountville Cross Road, or even beyond?

5. What do wineries outside of the proposed area consider to be the "Stags Leap District" grape growing area?

6. What name other than "Stags Leap District" has been applied to the area as proposed in Notice No. 620, or to the extended area to the Yountville Cross Road?

7. To what extent have wineries in the area proposed in Notice No. 620, as well as those in the area north to the Yountville Cross Road, identified themselves as being in "Stags Leap District?"

8. To what extent have grapes grown in the proposed area, or the extended area north of the boundaries proposed in Notice No. 620, been or not been marketed as "Stags Leap District" grapes?

Drafting Information

The author of this document is James Ficaretta, Coordinator, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer protection, Viticultural areas, and Wine.

Authority

This notice of hearing is issued under the authority of 27 U.S.C. 205.

Approved: September 23, 1987.

Philip C. McGuire,

Acting Director.

[FR Doc. 87-22309 Filed 9-28-87; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[Notice No. 642]

Warren Hills Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in northwestern New Jersey, to be known as "Warren Hills." This proposal is the result of a petition submitted by a group of wineries and grape growers located in the proposed area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will enable winemakers to label wines more precisely and will help consumers to better identify the wines they purchase.

Comment date: Written comments must be received by November 13, 1987.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 642). Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4412, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226; (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 provide for the establishment of definite

viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

Part 9 of 27 CFR provides for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petition

ATF has received a petition, prepared by Mr. Rudolf Marchesi of Alba Vineyard and submitted on behalf of a group of wineries and grape growers from Warren County, New Jersey. The group consists of Alba Vineyard, Marble Mountain Vineyards, Four Sisters Winery, Tamuzza Vineyards, and Mr. Daniel Campanelli (an individual grower). The petition proposes establishment of a viticultural area to be known as "Warren Hills." The proposed area would be located entirely within Warren County. The area contains approximately 226 square miles, within which there are approximately 77 acres planted to winegrapes. Three wineries are operating within the area. The proposed area is located a little to the north of the approved "Central Delaware Valley" viticultural area.

Geography of the Area

Geographically, the proposed area consists of a series of narrow, parallel valleys, formed by tributaries of the

Delaware River. The petitioner submitted evidence that the area is distinguished from surrounding areas by soil, topography, and climatic conditions.

According to the petitioner, the "Warren Hills" soils are less acidic than those of some surrounding areas, "due to the nature of the bedrock." He explained that "The vineyard soils of the Warren Hills region are formed from Dolomitic Limestone which has a high concentration of calcium and magnesium," but that the soils of surrounding areas "are formed from shale and other sources." The relative pH values of vineyard soils within and to the north of the area are contrasted as follows:

"Warren Hills" soils	Soils to the north
Hazen Loam 5.6-7.8.....	Bath soils 4.5-6.5.
Annandale Gravelly Loam 5.1-6.5.	Nassau soils 4.5-5.5.
Washington Loam 5.6-6.3.....	Swartswood soils 3.6-5.5.

The higher pH values of the "Warren Hills" soils indicate less acidity. Those values show that "Warren Hills" vineyard soils range from moderately acidic to slightly alkaline. Soils to the north and to the south are more acidic. Typical vineyard soils in the Central Delaware Valley viticultural area (south of the "Warren Hills") have been described, in soil surveys published by the U.S. Department of Agriculture, as: "Natural reaction is strongly acid," and "Natural reaction ranges from medium acid to strongly acid."

The soils to the northeast of the proposed viticultural area are also distinguishable. The northeastern boundary of the area corresponds generally to the terminal moraine of a glacial advance known as the "Wisconsin." According to the petitioner, there was once a large glacier, which covered the land to the northeast of the proposed area but did not extend into the area itself. When the glacier receded, it left behind some glacial deposits, which became mixed with the native soil, rendering it less suitable for viticulture. By contrast, the "Warren Hills" soil generally does not contain such glacial deposits. Westward, across the Delaware River, limestone soils like those of the "Warren Hills" reappear. However, the petitioner has indicated that they are less prominent there, and further, that the topography of that region is significantly different, so that the Delaware River does form a proper boundary, despite the similarity of soils. The farmland across the Delaware River lies mostly in a single broad valley (the Lehigh Valley); whereas the "Warren Hills"

area contains about five narrower valleys. Those valleys run southwest to northeast; consequently, in the "Warren Hills" there are numerous south-facing or southeast-facing slopesides, which make the best vineyard sites. More direct exposure to sunlight creates microclimates with warmer than average temperatures, especially in winter. Further, the valleys of the "Warren Hills" create a desirable air drainage situation, in which cool air drains downward, away from the hillside vineyards. This feature is important in the spring and fall, when there may be a danger of untimely frost.

Another way in which the topography of the proposed area affects its viticulture is by channeling the prevailing southwest winds. Since the area's valleys parallel the wind direction, they form channels through which the winds may travel with minimal obstruction. The winds cool the vines on hot summer afternoons and reduce relative humidity. These effects, together with the favorable air drainage already mentioned, "assist in the control of mold and mildew on the vines," according to the petitioner. Topography also forms a basis for the northwestern boundary of the "Warren Hills," for that boundary marks the beginning of a more mountainous area: Kittatinny Mountain, a member of the Pocono chain. Similarly, the southeastern border of the proposed area reflects a topographical distinction that marks the boundary of two geological regions of New Jersey: The "Upland Valley" region (in which the "Warren Hills" lie) and the "Piedmont" region. The Piedmont's rolling hills contrast with the straight, narrow valleys of the "Warren Hills." (This distinction was previously cited by ATF in the rulemaking for the "Central Delaware Valley" viticultural area.) The petitioner also contrasted his proposed area with surrounding areas on the basis of climate. In particular, he noted that the eastern boundary of the area lies where the growing season drops off to less than 150 days. Inside the proposed area, the growing season "averages 175 frost-free days, but is often longer on selected sites," says the petitioner. This difference is significant for viticulture, because it means that certain late-ripening varieties, such as vidal blanc, seyval blanc, and cabernet sauvignon, could not be grown in the area to the east. Some of the climatic features that affect viticulture during the growing season are directly caused by the area's unique topography. The combination of southward-facing vineyard slopes and the funneling effect of the long, narrow valleys on the prevailing winds result in

"warm days and cool nights," which benefit the grapes, according to the petitioner.

Name of the Area

The petitioner submitted evidence that the area is locally known by the name "Warren Hills." Evidence included a page from the local telephone directory, listing the "Warren Hills Family Health Center." The petitioner also stated that there is a "Warren Hills High School" and a "Warren Hills Junior High School" in the area.

The Warren Hills High School draws students from most parts of the proposed viticultural area, according to the petitioner. The northern part of Warren County, outside the proposed area, is served by a different high school, named the "North Warren Regional High School." The Warren Hills Junior High is near the Warren Hills High School, and the two schools draw students from approximately the same area, the petitioner said.

The name "Warren Hills" derives from Warren County and from the proposed area's topography. The county was named in the early nineteenth century after a Revolutionary War patriot from the area who died in the Battle of Bunker Hill.

Boundaries of the Area

The proposed area is bounded by the Delaware River, the Musconetcong River, the Warren County/Sussex County line, and Paulins Kill (a stream). The boundaries may be found on 13 U.S.G.S. maps of the 7.5 minute series; namely, the Riegelsville, Easton, Bangor, Bloomsbury, Belvidere, Portland, High Bridge, Washington, Blairstown, Hackettstown, Tranquility, Flatbrookville, and Newton West Quadrangles. The boundaries would be as described in the proposed § 9.121.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal, because the Notice of Proposed Rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities. Further, the proposal will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the

Regulatory Flexibility Act (5 U.S.C. 605(b)) that this Notice of Proposed Rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 of Feb. 17, 1981, the Bureau has determined that this proposal is not a major rule since it will not result in:

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

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

(c) 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.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this Notice, because no requirement to collect information is proposed.

Public Participation—Written Comments

ATF requests comments concerning this proposed viticultural area from all interested persons. Further, while this document proposes possible boundaries for the "Warren Hills" viticultural area, comments concerning other possible boundaries for this area will be given consideration.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however,

reserves the right to determine, in light of all the circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer protection, Viticultural areas, Wine.

Issuance

Accordingly, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections in 27 CFR Part 9, Subpart C, is revised to add the title of § 9.121, to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

§ 9.121 Warren Hills.

* * * * *

Par. 3. Subpart C of 27 CFR Part 9 is amended by adding § 9.121, which reads as follows:

§ 9.121 Warren Hills.

(a) *Name.* The name of the viticultural area described in this section is "Warren Hills."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Warren Hills viticultural area are thirteen U.S.G.S. maps of the 7.5 minute series. They are titled:

(1) Riegelsville Quadrangle, Pennsylvania—New Jersey, 1956 (photorevised 1968 and 1973).

(2) Bloomsbury Quadrangle, New Jersey, 1955 (photorevised 1970).

(3) High Bridge Quadrangle, New Jersey, 1954 (photorevised 1970).

(4) Washington Quadrangle, New Jersey, 1954 (photorevised 1971).

(5) Hackettstown Quadrangle, New Jersey, 1953 (photorevised 1971, photoinspected 1976).

(6) Tranquility Quadrangle, New Jersey, 1954 (photorevised 1971).

(7) Newton West Quadrangle, New Jersey, 1954 (photorevised 1971).

(8) Flatbrookville Quadrangle, New Jersey—Pennsylvania, 1954 (photorevised 1971).

(9) Blairstown Quadrangle, New Jersey—Warren Co., 1954 (photorevised 1971).

(10) Portland Quadrangle, Pennsylvania—New Jersey, 1955 (photorevised 1984).

(11) Belvidere Quadrangle, New Jersey—Pennsylvania, 1955 (photorevised 1984).

(12) Bangor Quadrangle, Pennsylvania—New Jersey, 1956 (photorevised 1968 and 1973).

(13) Easton Quadrangle, New Jersey—Pennsylvania, 1956 (photorevised 1968 and 1973).

(c) *Boundary*—(1) *General*. The Warren Hills viticultural area is located in Warren County, New Jersey. The beginning point of the following boundary description is the junction of the Delaware River and the Musconetcong River, at the southern tip of Warren County (on the Riegelsville map).

(2) *Boundary Description*. (i) From the beginning point, the boundary goes northeastward along the Musconetcong River for about 32 miles (on the Riegelsville, Bloomsbury, High Bridge, Washington, Hackettstown, and Tranquility maps) to the point where it intersects the Warren County/Sussex County line;

(ii) Then northwestward along that county line for about 10 miles (on the Tranquility, Newton West, and Flatbrookville maps) to Paulins Kill;

(iii) Then generally southwestward along Paulins Kill (on the Flatbrookville, Blairstown and Portland maps) to the Delaware River;

(iv) Then generally south-southwestward along the Delaware River (on the Portland, Belvidere, Bangor, Easton, and Riegelsville maps) to the starting point.

Approved: September 17, 1987.

Stephen E. Higgins,

Director.

[FR Doc. 87-22308 Filed 9-28-87; 8:45 am]

BILLING CODE 4810-31-M

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the timeframes for protection of proprietary geological and geophysical data and information collected in the Outer Continental Shelf (OCS). This revision would provide additional assurance that the party that incurred the cost to produce the data and information would have a reasonable opportunity for exclusive use of them during subsequent lease sales in the general area. Two different approaches are presented for the text of the rule, and comments are solicited concerning which approach should form the basis for the final rule.

DATE: Comments must be received or postmarked no later than October 29, 1987.

ADDRESS: Comments should be mailed or hand-delivered to the Department of the Interior; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646, Room 6A110; Reston, Virginia 22091; Attention: Gerald D. Rhodes.

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, telephone: (703) 648-7816.

SUPPLEMENTARY INFORMATION: Section 26(c) of the OCS Lands Act requires that—

The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information * * *.

Current regulations of §251.14 provide a 10-year period of time during which G&G data and information collected under a permit are not available to the public without the consent of the permittee.

The MMS has issued two proposed rules which address this situation. One was published in the *Federal Register* on June 30, 1983 (48 FR 30147), and the second on February 20, 1986 (51 FR 6133).

Following the publication of these notices and analysis of the comments received in response to the notices, MMS determined that to develop the best possible rule in the area of protection of geophysical data and information collected under a permit, MMS should issue another proposed rule prior to issuing a final rule. This determination was in part due to the fact that MMS is considering two approaches as to how a final rule should be structured and believes that the public should be provided with an opportunity to comment on the

approaches. To provide MMS with the opportunity to revise the rules governing the period of protection of prelease geophysical data and information without releasing such proprietary geophysical data and information in the interim, a temporary rule which suspended the release of prelease proprietary geophysical data and information for a period of 1 year was published in the *Federal Register* on June 22, 1987 (52 FR 23440).

The MMS is now addressing comments which have been received in response to the two previous *Federal Register* Notices to the extent that those comments pertain to the subject of this proposed rule.

The notice which was published on June 30, 1983, proposed to extend the period of protection for G&G data and information collected either on a lease or under a permit. Timely comments were received in response to this publication from 20 interested parties—16 oil production/exploration companies, 1 trade/technical association, 2 States, and 1 support/service contractor.

The majority of the commenters (15 out of 20) favored the proposed change. The primary reason given for favoring the change was that the company developing costly data and information should be entitled to exclusive use of the data and information for at least one lease sale. Fewer commenters (5 out of 20) opposed the proposed change. The primary reason given for opposing the change was that it restricted the free flow of G&G data and information which are needed by the public for the development of offshore oil production and by the States to determine the impact of such development.

In developing this proposed rule change, MMS has considered both the needs of the public and the States for these data and information and the need to provide certain minimum protection for the party incurring the cost of obtaining the data.

Many commenters raised specific points concerning the proposed change in the regulations. Each of these comments was considered and is discussed below.

Several commenters questioned the use of a planning area as the criteria used to determine when a lease issuance or offering would allow release of geophysical information. Some commenters felt that this was too broad an area for the information to be relevant while other commenters felt that a planning area was not well enough defined. One commenter questioned what would be done for a

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 251

Geological and Geophysical Explorations of the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

leasing moratorium in a portion of the planning area. In place of a planning area, commenters suggested criteria of various distances from 50 miles to as small as 10 miles. In one of the proposed alternatives, MMS has used the planning area as a criterion since geophysical data and information, in many cases, apply to a large area. Also, this approach takes into consideration the fact that the protection being provided through the amendment is additional protection over and above the terms currently provided for in MMS regulations. In some cases when lease sales are delayed, MMS will have used acquired information to determine that an area is not likely to contain hydrocarbons, or potential lessees will have used available information as the basis for decisions not to express an interest in an area. When these areas are omitted from a lease sale, it is because of the available information and, thus, there is little need to provide further protection to information concerning these areas. In the other proposed alternative, a set time is used; location of lease offerings is not a factor.

Two commenters suggested that, to avoid confusion when a 50-mile arc cuts through a lease, MMS clearly state that if any portion of an issued lease is within the specified distance, then the data will be released. The MMS agrees with this suggestion, and the proposed rule includes the suggested addition in cases where a distance criterion is used.

One commenter questioned why continental offshore stratigraphic test (COST) well data which previously were available within a few years will now be withheld for 20 years. Another commenter questioned the change from the wording "whichever is lesser" to the wording "whichever is later." In each of these cases, there appears to be some confusion as to when the later date applied and when the earlier date applied. With COST wells, the release date is proposed to be extended only when a lease sale has not occurred in the area. Under present regulations when COST well data are released in a few years, it is because a lease has been issued within 50 geographic miles of the well. The MMS has proposed the use of the 20-year limit (in place of the current 10-year limit) for those cases where a lease is not issued within 50 geographic miles of the well. This would prevent unlimited protection of data. The phrase "whichever is later" refers to the later between the minimum protection provided and the first lease issuance in the area. In response to these comments, the wording of the proposals has been changed to clarify the relationship of the

events with regard to release of data and information.

One commenter felt that "data and information" in sections 26 (a) and (c) of the OCS Lands Act (OCSLA) are not the same as "data and information" in section 18(h) of the OCSLA. The basic treatment of data and information is an established part of current rules and is not being proposed for change. This amendment only covers the term of protection. The basic question of what data should be protected is outside the scope of this rulemaking.

There were comments both in favor of and against the concept of applying the amended rule to all data in the possession of MMS not just data submitted after the amended rule is effective. The MMS feels it is necessary to apply the amended rule to all data whether they were submitted before or after the amended rule becomes effective. The MMS realizes that many companies collected data with the understanding that a lease sale would occur prior to the end of the minimum time period for protection from disclosure but then anticipated lease sales were delayed. The MMS feels that to be fair to these companies, the proposed rule is written to apply to all data in the possession of MMS.

One commenter suggested that 60 days after issuance of a lease be changed to 6 months after issuance of a lease to allow for challenges to a lease. Another commenter suggested that the time should be 60 days after the lease is not longer subject to challenge. The MMS disagrees with these suggested changes. A challenge to a lease will normally occur before the lease is issued and will delay the issuance of the lease. The MMS does not feel that any additional time is necessary beyond the 60 days after issuance. Accordingly, portions of the proposed rule which rely on lease offerings do not allow time beyond a lease sale.

One commenter suggested that further protection of data is needed and suggested that data and information not be released until all immediately adjacent, unleased acreage has been offered for lease and until it is reoffered in cases where a lease bid has been rejected. The MMS has proposed two approaches which provide what MMS considers to be balanced proposal for protection of data and information.

Several commenters questioned particular wording used in the regulation. The MMS has modified the wording, where appropriate, in the new proposal to improve clarity.

On February 20, 1986, MMS published a notice of proposed rulemaking in the

Federal Register (51 FR 6133). At that time, MMS proposed to extend the period of time that G&G data and information would be protected from disclosure in those areas which the Secretary of the Interior (Secretary) designates as unavailable for leasing. It was proposed to extend the period of time that data and information are protected from disclosure for a period of time equal to the period of time during which the Secretary determined that the area was unavailable for leasing.

Fifteen timely comments were received. Twelve were from oil companies, 2 were from geophysical companies, and 1 was from a geophysical trade association. All commenters favored the proposed amendment although many of the commenters suggested further changes.

The main comment received related to the need for protection regardless of why a sale did not occur. The MMS agrees, and one of the proposed alternatives follows the proposed rule published June 30, 1983. In addition, the approach includes a provision to further extend the 10-year period of protection in areas subject to congressionally imposed leasing moratoria when a lease sale does not occur for 20 years or when a lease sale occurs in the planning area although the area to which the geophysical information applies is subject to the moratoria. The specification of a congressionally imposed leasing moratoria addresses commenters who expressed the feeling that the phrase "the area designated by the Secretary," which was used in the February 1986 proposed rule, should be replaced by a more rigid definition. The phrase "congressionally imposed moratoria" provides a more rigid definition and has been used in the first alternative rule. This is not a factor in the second alternative rule.

The rules proposed on June 30, 1983, and February 20, 1986, would have applied both to data and information obtained under a permit and to data and information obtained under a lease. This proposed rule applies to data and information obtained under a permit. The MMS published a notice of final rulemaking on April 22, 1987 (52 FR 13235), which amended postlease rules regarding the period of protection of geological data and information. Comments concerning the period of protection of postlease proprietary data and information were addressed at that time.

The MMS is not considering two approaches to amend rules governing the period of protection of prelease geophysical data and information.

Interested parties are invited to submit written comments indicating whether the regulations should be amended, and if so, which of the two alternative approaches should be followed in the final rule. Specific comments should address both alternative approaches since either alternative rule 1 or alternative rule 2 may form the basis for the final rule. The two alternative approaches are summarized below.

Alternative Rule 1

1. Geophysical information collected under a permit, which is currently protected for 10 years, will be protected beyond 10 years when a lease sale has not occurred in the planning area in which the information was generated. This protection would extend until a lease is offered in the planning area and would not exceed 20 years. A provision is being proposed to allow the Director to release the information anytime after 10 years if certain criteria are met. These criteria allow for cases where the release is necessary to create a unitized lease, when a significant determination of hydrocarbons or an environmental hazard is made and is announced in a manner to minimize the release of data and information (i.e., the expected existence of hydrocarbons or an environmental hazard would be announced but the underlying data and information would not be released), or when the releases of the data and information is needed for specific scientific or research purposes by the Government and would further the national interest without unduly damaging the competitive position of the permittee. Comments are specifically invited concerning this criteria and whether other criteria would be more appropriate.

2. The maximum term of protection for geological data and information obtained from a deep stratigraphic test or geophysical information submitted in support of a deep stratigraphic test would be increased from 10 to 20 years. Data and information would be protected for this maximum period of time when a lease has not been issued within 50 miles of the well site. If such a lease has been issued, the data and information are released 60 days after the lease sale under current rules and would continue to be released at that time under the proposed rules.

3. The period of protection of geophysical data obtained under a permit would be increased from 10 years to 20 years. A provision is being proposed to allow the Director to release the data anytime after 10 years if certain criteria are met. These criteria allow for cases where the release is

necessary to create a unitized lease, when a significant determination of hydrocarbons or an environmental hazard is made and is announced in a manner to minimize the release of data and information (i.e., the expected existence of hydrocarbons or an environmental hazard would be announced but the underlying data and information would not be released), or when the release of the data and information is needed for specific scientific or research purposes by the Government and would further the national interest without unduly damaging the competitive position of the permittee. Comments are specifically invited concerning this criteria and whether other criteria would be more appropriate.

4. An additional change has been proposed to provide an extended period of protection for data and information that apply to a portion of the OCS subject to congressionally imposed leasing moratoria. In instances where a lease sale in a planning area triggers the release of data or information, the lease sale would not be considered to have occurred for the purpose of releasing data or information if such data or information were collected in a portion of the OCS which is under a moratorium at the time of the lease sale. Also, the 20-year maximum allowable protection provided during which the portion of the OCS, where the data or information are generated, is covered by a moratorium.

5. For the purpose of streamlining the rule and improving the clarity of the rule, all provisions governing protection of data and information related to deep stratigraphic tests would be put into a new paragraph (e).

Alternative Rule 2

1. Geophysical data and information which are protected for 10 years under current regulations would be protected for 20 years. A provision is being proposed to allow the Director to release the data and information anytime after 10 years if certain criteria are met. These criteria allow for cases where the release is necessary to create a unitized lease, when a significant determination of hydrocarbons or an environmental hazard is made and is announced in a manner to minimize the release of data and information (i.e., the expected existence of hydrocarbons or an environmental hazard would be announced but the underlying data and information would not be released), or when the release of the data and information is needed for specific scientific or research purposes by the Government and would further the national interest without unduly

damaging the competitive position of the permittee. Comments are specifically invited concerning this criteria and whether other criteria would be more appropriate.

2. After 20 years, the data and information would be released unless the permittee requested a 5-year extension of the period of protection. If an extension is requested, the data and information would be released at the end of the 5-year extension. The permittee would be allowed to request an extension of the period of protection during the last year of the 20-year period of protection and at least 90 days prior to the end of the original 20-year period of protection.

3. The maximum period of protection for geological data and information obtained from a deep stratigraphic test or geophysical information submitted in support of a deep stratigraphic test would be increased from 10 to 20 years. Data and information would be protected for this maximum period of time when a lease has not been issued within 50 miles of the well site. If such a lease has been issued, the data and information are released 60 days after the lease sale under current rules and would continue to be released at that time under the new rules.

4. For the purpose of streamlining the rule and improving the clarity of the rule, all provisions governing protection of data and information related to deep stratigraphic tests would be moved into a new paragraph (e).

The Department of the Interior (DOI) has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an environmental impact statement is not required.

The DOI has also determined that this document is not a major rule under Executive Order 12291 because the annual economic effect is less than \$100 million.

The DOI also certifies that the rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 610 *et seq.*) as the entities that engage in offshore activities are not considered small due to the technical complexity and financial resources necessary to conduct offshore activities.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Author

The document was prepared by John V. Mirabella; Branch of Rules, Orders,

and Standards; Offshore Rules and Operations Division; Minerals Management Service.

List of Subjects in 30 CFR Part 251

Continental shelf, Freedom of information, Oil and gas exploration, Public lands-mineral resources; Reporting and recordkeeping requirements, Research.

Dated: August 21, 1987.

David W. Crow,

Acting Director, Minerals Management Service.

PART 251—[AMENDED]

Alternative Rule 1

For the reasons set forth above, 30 CFR Part 251 is proposed to be amended as follows:

1. The authority citation for Part 251 continues to read as follows:

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4332 et seq. (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

2. Section 251.14-1 is amended to remove paragraph(c)(3).

3. Section 251.14-1 is amended by revising paragraphs (d) (1) and (2) and (e), removing paragraph (d)(3), and adding paragraph (f) to read as follows:

§ 251.14-1 Disclosure of information and data to the public.

* * * * *

(d) * * *

(1) The Director shall make geophysical data available to the public 20 years after the issuance of the permit under which the data were obtained. However, the Director may release the data and information anytime after 10 years if the Director determines that (i) the data and information are needed to unitize operations on 2 or more leases, to ensure proper plans of development for competitive reservoirs, or to ensure operational safety, and the data and information are shown only to persons with an interest in the issue, (ii) a significant environmental hazard or indication of hydrocarbons has been encountered in an unleased area where the existence of hydrocarbon deposit has not previously been confirmed and the determination is announced in a manner to minimize the amount of proprietary data and information released, or (iii) the geophysical data and information are necessary for specific scientific or research purposes for the Government and the release of such data and information would further

the national interest without unduly damaging the competitive position of the permittee. When indications of hydrocarbons are announced, the data and information upon which the announcement is based shall not be released.

(2) The Director shall make available to the public processed geophysical information, reprocessed geophysical information, and interpreted geophysical information at the later of the following times: 10 years after the date of submission to the Director, or 60 calendar days after the issuance of the first OCS oil and gas lease from a sale subsequent to the date of submission such that the sale offers tracts in the planning area in which the information was generated provided that no geophysical information shall be held more than 20 years. However, the Director may release the data and information anytime after 10 years if the Director determines that (i) the data and information are needed to unitize operations on 2 or more leases, to ensure proper plans of development for competitive reservoirs, or to ensure operational safety, and the data and information are shown only to persons with an interest in the issue, (ii) a significant environmental hazard or indication of hydrocarbons has been encountered in an unleased area where the existence of hydrocarbon deposits has not previously been confirmed and the determination is announced in a manner to minimize the amount of proprietary data and information released, or (iii) the geophysical data and information are necessary for specific scientific or research purposes for the Government and the release of such data and information would further the national interest without unduly damaging the competitive position of the permittee. When indications of hydrocarbons are announced, the data and information upon which the announcement is based shall not be released. A lease sale will not be considered to have occurred for the purpose of release of information under this paragraph if any of the areas to which the information applies was under congressionally imposed leasing moratoria at the time of the lease sale.

(e) The Director shall make available to the public all geophysical data and information obtained from drilling a deep stratigraphic test, geological data, geological information, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information submitted in support of a application for a permit to

drill a deep stratigraphic test, or which the permittee is required to obtain in order to conduct the drilling of a deep stratigraphic test, at the earliest of the following times: (i) 20 years after completion of the test, or (ii) for a lease sale held after the test well is completed, 60 calendar days after the Department of the Interior executes the first lease for a tract, any part of which is within 50 geophysical miles (92.6 kilometers) of the site of the completed tests.

(f) In areas presently or previously subject to congressionally imposed leasing moratoria, the 20-year limit to the period of protection specified in paragraphs (d)(1), (d)(2), and (e) of this section shall be extended to limit the maximum allowable protection to 20 years plus the length of time during which the area to which the submitted data or information apply was covered by a congressionally imposed leasing moratorium.

Alternative Rule 2

For the reasons set forth above, 30 CFR Part 251 is proposed to be amended as follows:

1. The authority citation for Part 251 continues to read as follows:

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4332 et seq. (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. et seq.

2. Section 251.14-1 is amended by removing paragraph (c)(3).

3. Section 251.14-1 is amended by revising paragraphs (d) (1) and (2) and (e), and removing paragraph (d)(3) to read as follows:

§ 251.14-1 Disclosure of information and data to the public.

* * * * *

(d) * * *

(1) The Director shall make geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information available to the public 20 years after the issuance of the permit under which the data or information were obtained unless the permittee requests an extension of the period of protection in accordance with paragraph (d)(2) of this section. When an extension is granted in accordance with paragraph (d)(2) of this section, the Director shall make such geophysical data and information available to the public 25 years after the issuance of the permit under which the data or information

were obtained. However, the Director may release the data and information anytime after 10 years if the Director determines that (i) the data and information are needed to unitize operations on 2 or more leases, to ensure proper plans of development for competitive reservoirs, or to ensure operational safety, and the data and information are shown only to persons with an interest in the issue, (ii) a significant environmental hazard or indication of hydrocarbons has been encountered in an unleased area where the existence of hydrocarbon deposits has not previously been confirmed and the determination is announced in a manner to minimize the amount of proprietary data and information released, or (iii) the geophysical data and information are necessary for specific scientific or research purposes for the Government and the release of such data and information would further the national interest without unduly damaging the competitive position of the permittee. When indications of hydrocarbons are announced, the data and information upon which the announcement is based shall not be released.

(2) Upon the request of the permittee, the Director shall grant a 5-year extension of the period of protection of proprietary data and information provided that the request for extension is submitted at least 90 days and not more than 365 days prior to the expiration of the original 20-year period of protection.

(e) The Director shall make available to the public all geological data and information obtained from drilling a deep stratigraphic test, geological data, geological information, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information submitted in support of an application for a permit to drill a deep stratigraphic test, or which the permittee is required to obtain in order to conduct the drilling of a deep stratigraphic test, at the earliest of the following times: (i) 20 years after completion of the test, or (ii) for a lease sale held after the test well is completed, 60 calendar days after the Department of the Interior executes the first lease for a tract, any part of which is within 50 geographic miles (92.6 kilometers) of the site of the completed test.

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Restricted Area, Anaheim Bay Harbor, CA

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to amend the regulations which established a danger zone in the Waters of Anaheim Bay Harbor, California, by redesignating the area as a restricted area and make other changes to simplify enforcement of the restricted area regulations. These proposed amendments will, if approved, eliminate the requirement for a separate decal marking and registration system and will establish a small craft channel in the Inner Harbor to prevent vessels from intruding in the restricted area.

DATE: Written comments must be submitted on or before October 29, 1987.

ADDRESS: HQDA, CECW-OR, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Cliff Reader at (213) 894-0351 or Mr. Ralph Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his or her address, identify this notice and give the reasons for the comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests are received and the Corps of Engineers determines that the opportunity to make oral presentations will aid the rulemaking process. The Naval Weapons Station has revised their internal security process to create a more navigable and more easily controlled waterway. Part of this effort has resulted in a properly marked small boat channel in the southern part of the Inner Harbor in Anaheim Bay. This did not exist in the past other than as a customary usage channel. The decal registration system required by current regulations has proven to be unwieldy and awkward to enforce. This amendment to the regulation codifies actual practice by requiring small craft transiting the Inner Harbor to remain within the limits of the marked channel, and eliminates the registration and decal requirement.

Economic Assessment and Certification

This proposed rule is issued with respect to a military function of the Defense Department and provisions of Executive Order 12291 do not apply. The Corps of Engineers certifies that if adopted, this proposal will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the foregoing, the Corps of Engineers proposes to amend Part 334 of Title 33 to read as follows:

PART 334—DANGER ZONES AND RESTRICTED AREA REGULATIONS

1. One authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; 33 (U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.930 is revised to read as follows:

§ 334.930 Anaheim Bay Harbor, California; Naval Weapons Station, Seal Beach.

(a) *The restricted area.* The waters of Anaheim Bay Harbor between the east and west jetties at the United States Naval Weapons Station, Seal Beach, California, and the contiguous tidal channel and basin as far east as the Anaheim Bay Bridge.

(b) *The regulation.* (1) The authority of the Naval Weapons Station Commanding Officer in this area extends to restricting and disallowing the navigating or anchorage of craft during such times as the Commanding Officer determines that considerations of national security or safety warrant such action(s).

(2) All craft authorized transit of this area shall stay within the limits of the entrance channel in the Outer Harbor, and confine their movement to within the limits of the marked small craft channel at the southern portion of the Inner Harbor.

(3) Recreational craft, such as water skis, jet skis, rowboats, canoes, kayaks, wind surfers, sailboards, surfboards, etc., are specifically prohibited within the restricted area.

(4) Boats unable to throttle down or to maintain steerage way at 5 miles per hour speed shall proceed at the minimum speed consistent with seamanship in an area regularly subject to waterborne explosive handling operations. In case of doubt, boat operators of inbound boats will remain in the west end of the basin and outbound boats in the east end of the basin until informed by a representative

of the Naval Weapons Station or U.S. Coast Guard of the completion of the waterborne explosive handling hazard.

(5) Smoking, open flames and barbecues in boats are prohibited during the transit of this area.

(6) Nothing in the regulations in this section shall be construed as relieving the owner or persons in command of any vessels or plant from the penalties of the law for obstructing navigation or for not complying with the navigation laws in regard to lights or signals or for otherwise violating law.

(7) All vessel operators shall heed and obey all posted signs and/or instructions issued by security personnel of the U.S. Naval Weapons Station.

(8) The regulations in this section shall be enforced by the Commanding Officer, U.S. Naval Weapons Station, Seal Beach, California, and such agencies as he/she may designate. For clarification or other information, the U.S. Naval Weapons Station Command Duty Officer should be contacted at (213) 594-7101.

Date: September 3, 1987.

Joseph T. Larremore,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 87-21289 Filed 9-28-87; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3238-3]

Amendments to Standards of Performance for New Stationary Sources; Notification and Recordkeeping

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to revise the reporting requirements of several Subparts in order to be consistent with current EPA policy. Affected Subparts are Subpart A (General Provisions), Subpart D, and Subparts EE, MM, RR, SS, TT, WW and HHH (surface coating standards) of 40 CFR Part 60. Amending these Subparts will not change monitoring or recordkeeping requirements of the affected facilities. The intended effect of the amendments is to reduce the reporting burden and to provide EPA sufficient information to carry out effective monitoring and enforcement.

DATES: *Comments.* Comments must be received on or before October 26, 1987 (Contact Ann Eleanor at FTS 629-5578).

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-85-01, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Docket. Docket No. A-85-01, containing supporting information used in developing the proposed amendments, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, South Conference Center, Room 4, Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell or Ms. Amanda Aldridge, Standards Development Branch, Emission Standards and Engineering Division, (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541-5568 or 5268.

SUPPLEMENTARY INFORMATION:

1. Background for Proposed Amendment

Rationale for Proposed Reporting Frequencies

In 1985, the Agency reviewed the information collection requirements and reporting frequencies of new source Performance standards (NSPS). As a result of that review, the policy under which the Agency determines reporting frequencies for NSPS was developed and published July 27, 1987, in the *Federal Register* as part of the preamble for proposed standards of performance for fluid catalytic unit regenerators (November 8, 1985 50 FR 46464).

For NSPS, the information collected is of three different types that are of different utilities to the enforcing agency. These types of information are monitored parameter data, excess emission data as measured by continuous monitoring systems (CMS)¹, and direct compliance information. Direct compliance information is most useful to an enforcement agency because the compliance status of the source is evident from the information itself, and no further testing is necessary for documentation. Because these data can be used so quickly, and because it is

¹ Emission data measured by CMS can be either excess emission data or direct compliance information depending on how the use of the CMS is defined in the applicable subpart. The applicable subpart must specify the CMS as the compliance method for the emission data measured by the CMS to be direct compliance information.

beneficial to an enforcement action to have the most current data available, sources will be required to report this information to EPA on a quarterly basis. However, if no exceedances of the standard have occurred during a particular quarter, only a statement to that effect (negative declaration) is needed. Further, these negative declarations may be made on a semiannual basis. This helps focus the resources both of the industry and of EPA on sources where remedial action is warranted.

For the other types of reported information (i.e., monitored parameter data and CMS excess emission data), EPA currently must take some other step (e.g., performance test, inspection, etc.) before proving a violation of an applicable emission limit. Under the new policy for NSPS, reporting frequencies of data other than direct compliance information are reviewed regulation by regulation and semiannual reporting is required in the absence of evidence as to why this is not sufficient. Factors that are reviewed include location and size of the source, number of sources, likelihood of excess emissions, potential for severe adverse air quality impacts, and other factors as appropriate. More frequent reporting of excess emission data from CMS may be required if in the future EPA determines that CMS excess emission data may also be used for direct enforcement.

In certain subparts (e.g., Subparts P, Q, and R), the CMS data are to be used to determine compliance during a performance test. However, except for the performance test, the CMS data are not intended to determine compliance with the standards. Therefore, except during performance tests, the CMS data are considered to be excess emission data rather than direct compliance information and should be reported semiannually.

Amendment to General Provisions

The EPA is proposing to amend the General Provisions (Subpart A) of 40 CFR Part 60. The General Provisions specify procedures and definitions that apply to all owners and operators of air pollution sources covered by NSPS. Currently, under 40 CFR 60.7(c), owners and operators of certain affected facilities required to install and operate CMS must submit a written report of excess emissions to the Administrator every calendar quarter. Sources that must comply with this provision are identified in the individual subparts (e.g., Subpart G—Nitric Acid Plants). This notice proposes that the frequency of submission of excess emission reports

required by § 60.7(c) be reduced from quarterly to semi-annually. For certain other affected facilities (e.g., those subject to Subpart Db), continuous monitoring data are used directly for determination of compliance and are required to be submitted quarterly. Today's action does not affect this requirement.

This proposed revision to the General Provisions would implement the new reporting policy with regard to excess emission reports, which generally consist of continuous emission monitoring data. The EPA is proposing to change the reporting period for excess emission reports to semiannual in order to reduce the burden to industry of preparing and submitting excess emission reports and to reduce the volume of reports to be handled by regulatory agencies. It is the Agency's judgment that less frequent reporting will have no effect upon the utility of the data which may be obtained from such reports and that the effects upon enforcement of NSPS would be minimal. However, if the Administrator judges that more frequent reporting is needed from owners/operators of some affected facilities, he may so require, either by requests for particular sources or by regulation for classes or categories of sources.

The proposed revision would reduce to semiannual the excess emission reporting requirements for the following subparts and affected facilities: Subpart G—Nitric Acid Plants; Subpart H—Sulfuric Acid Plants; Subpart J—Petroleum Refineries (except SO₂ excess emission data); Subpart P—Primary Copper Smelters; Subpart Q—Primary Zinc Smelters; Subpart R—Primary Lead Smelters; Subpart Z—Ferrous Alloy Production Facilities; Subpart AA—Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or before August 17, 1983; Subpart BB—Kraft Pulp Mills; Subpart CC—Glass Manufacturing Plants; Subpart GG—Stationary Gas Turbines; Subpart HH—Lime Manufacturing Plants; and Subpart NN—Phosphate Rock Plants.

Amendment to Subpart D

The EPA is also proposing to amend Subpart D—Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971. The facilities affected by Subpart D are large sources of sulfur dioxide and nitrogen oxides emissions. Section 60.45(g) currently requires quarterly reporting of excess emissions. The previously discussed amendment to § 60.7(c) of the General Provisions would change the excess emission reporting to semiannual.

However, since facilities affected by Subpart D are some of the largest individual sources of sulfur dioxide and nitrogen oxides, anything less than quarterly reporting could result in an unreasonably high level of emissions before corrective action could be taken. Also, quarterly reporting will involve only a minor burden on the source, since in almost all cases excess emission reports will be stored in a computer system and analyzed automatically. Therefore, the EPA has determined that quarterly excess emission reporting is appropriate for those sources affected by Subpart D. Consequently, the EPA is proposing to amend Subpart D, § 60.45(g) so that current requirements for quarterly excess emission reports remain the same.

It should be noted that on October 21, 1983, (40 FR 48960), EPA proposed a revision to Subpart D that would allow sulfur dioxide compliance testing by continuous emission monitoring, stack testing, or fuel sampling and analysis. If this proposal is promulgated, the compliance provisions and the contents of reports required for sulfur dioxide would change, but the frequency of reporting would remain quarterly. Also, the October 21, 1983, proposal will have no impact on opacity or nitrogen oxide requirements.

Amendment to Surface Coating Standards

In order to be consistent with the new reporting policy, the EPA also proposes to amend several standards of performance for surface coatings (i.e., Subparts EE, MM, RR, SS, TT, WW, HHH). These subparts currently require monthly compliance tests and monitoring of control device parameters, but the reporting requirements vary widely. Subparts EE, SS, and TT require reporting of initial performance tests only. Subparts RR, WW, and HHH require semiannual reporting of exceedances of the standard. Subpart MM requires monthly submission of reports when the standard is exceeded. The data resulting from the monthly compliance tests is direct compliance information which may be used by the enforcement agency as the sole evidence of a violation of the standard; therefore, it is important to have the most recent data available. As a result, sources should report these data quarterly if an exceedance of the standard has occurred and semiannually otherwise. Conversely, monitored parameter data cannot stand alone as justification for an enforcement action, so these reports should be submitted semiannually.

Therefore, the EPA is proposing to amend the surface coating standards to require quarterly reporting when the results of the monthly compliance tests show emissions exceeding the standard and to semiannually if no exceedances occur, and to require semiannual reporting of monitored parameter data.

II. Administrative Requirements

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review (except as noted in section 307(d)(7)(A)).

III. Office of Management and Budget Reviews

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (Pub. L. 95-511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR). This proposed amendment increases the reporting requirements for Subparts EE, RR, SS, TT, WW, and HHH, and decreases the reporting required for Subparts G, H, J, P, Q, R, Z, AA, BB, CC, GG, HH, MM, and NN. The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA," as well as to EPA. The final rule will respond to any OMB or public comments on the information collection requirements.

B. Executive Order 12291 Review

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. The Agency has determined that this amendment to the General Provisions and Subparts D, EE, MM, RR, SS, TT, WW, and HHH would result in none of the adverse economic effects set forth in section 1 of the order as grounds for finding a regulation to be a "major rule." The Agency has, therefore, concluded that these amendments are not a "major rule" under Executive Order 12291.

C. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the proposed amendment to 40 CFR Part 60 will not, if promulgated, have a significant economic impact on a substantial number of small entities. The amendment will only add new reporting requirements to Subparts EE, RR, SS, TT, WW, and HHH of Part 60. Consequently, it will not add significant costs to compliance with NSPS.

List of Subjects in 40 CFR Part 60

Air pollution control, Electric power plants, Intergovernmental relations, Reporting and recordkeeping requirements, Can surface coating, Fossil-fuel-fired steam generators, Synthetic fibers, Incorporation by reference.

Date: September 21, 1987.

Lee M Thomas,
Administrator.

It is proposed that 40 CFR Part 60 be amended as follows:

PART 60—[AMENDED]

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

Authority: Secs. 101, 111, 114, 301(a), Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7601(a)).

2. By revising paragraph (c) of § 60.7 of Subpart A—General Provisions to read as follows:

§ 60.7 Notification and recordkeeping.

(c) Each owner or operator required to install a continuous monitoring system shall submit a written report of excess emissions (as defined in applicable subparts) to the Administrator semiannually, except as otherwise provided by individual subparts. All semiannual reports shall be postmarked by the 30th day following the end of each calendar half and shall include the following information:

3. By revising paragraph (g) of § 60.45 of Subpart D—Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971 to read as follows:

§ 60.45 Emission and fuel monitoring.

(9) Excess emission reports shall be submitted to the Administrator for every calendar quarter. All quarterly reports shall be postmarked by the 30th day following the end of each calendar quarter. Each excess emission report

shall include the information required in § 60.7(c). Periods of excess emissions that shall be reported are defined as follows:

4. In Subpart EE—Standards of Performance for Surface Coating of Metal Furniture, § 60.315: 1. Paragraph (b) is revised. 2. Paragraph (c) is redesignated as paragraph (d) and revised. 3. New paragraph (c) is added.

§ 60.315 Reporting and recordkeeping requirements.

(b) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a written report to the Administrator every calendar quarter of each instance in which the volume-weighted average of the total mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.312. If no such instances have occurred during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit as specified in § 60.7(c):

(1) Where compliance with § 60.312 is achieved through the use of thermal incineration, each 3-hour period when metal furniture is being coated during which the average temperature of the device was more than 28 °C below the average temperature of the device during the most recent performance test at which destruction efficiency was determined as specified under § 60.313.

(2) Where compliance with § 60.312 is achieved through the use of catalytic incineration, each 3-hour period when metal furniture is being coated during which the average temperature of the device immediately before the catalyst bed is more than 28 °C below the average temperature of the device immediately before the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.313. Additionally, when metal furniture is being coated, all 3-hour periods during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference across the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.313 will be recorded.

(3) For thermal and catalytic incinerators, if no such periods as described in paragraphs (c)(1) and (c)(2)

of this section occur, the owner or operator shall submit a negative report.

(d) Each owner or operator subject to the provisions of the subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine VOC emissions from each affected facility. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain at the source, daily records of the incinerator combustion chamber temperature. If catalytic incineration is used, the owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed. Where compliance is achieved through the use of a solvent recovery system, the owner or operator shall maintain at the source daily records of the amount of solvent recovered by the system for each affected facility.

5. In Subpart MM—Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations, § 60.395: 1. Paragraph (b) is revised. 2. Paragraph (c) is revised.

§ 60.395 Reporting and recordkeeping requirements.

(b) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a written report to the Administrator every calendar quarter of each instance in which the volume-weighted average of the total mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.392. If no such instances have occurred during a particular quarter, a report stating this shall be submitted to the Administrator semiannually. Where compliance is achieved through the use of a capture system and control device, the volume weighted average after the control device should be reported.

(c) Where compliance with § 60.392 is achieved through the use of incineration, the owner or operator shall continuously record the incinerator combustion temperature during coating operations for thermal incineration or the gas temperature upstream and downstream of the incinerator catalyst bed during coating operations for catalytic incineration. The owner or operator shall submit a written report as specified in § 60.7(c) and as defined below.

6. In Subpart RR—Standards of Performance for Pressure Sensitive Tape

and Label Surface Coating Operations, § 60.447: 1. Paragraph (b) is revised. 2. Paragraph (c) is redesignated as paragraph (d) and revised. 3. New paragraph (c) is added.

§ 60.447 Reporting requirements.

(b) Following the initial performance test, the owner or operator of each affected facility shall submit quarterly reports to the Administrator of exceedances of the VOC emission limits specified in § 60.442. If no such exceedances occur during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

(c) The owner or operator of each affected facility shall also submit reports as specified in § 60.7(c) when the incinerator temperature drops as defined under § 60.443(e). If no such periods occur, the owner or operator shall submit a negative report.

(d) The requirements of this subsection remain in force until and unless EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with the requirements established by the State.

(Approved by the Office of Management and Budget under control number 2060-0004)

7. In Subpart SS—Standards of Performance for Industrial Surface Coating: Large Appliances, § 60.455: 1. Paragraph (b) is revised. 2. Paragraph (c) is redesignated as paragraph (d) and revised. 3. New paragraph (c) is added.

§ 60.455 Reporting and recordkeeping requirements.

(b) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a written report to the Administrator every calendar quarter of each instance in which the volume-weighted average of the total mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.452. If no such instances have occurred during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit as specified in § 60.7(c).

(1) Where compliance with § 60.452 is achieved through use of thermal incineration, each 3-hour period of coating operation during which the average temperature of the device was more than 28 °C below the average temperature of the device during the most recent performance test at which destruction efficiency was determined as specified under § 60.453.

(2) Where compliance with § 60.452 is achieved through use of catalytic incineration, each 3-hour period of coating operation during which the average temperature recorded immediately before the catalyst bed is more than 28 °C below the average temperature at the same location during the most recent performance test at which destruction efficiency was determined as specified under § 60.453. Additionally, all 3-hour periods of coating operation during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference across the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.453 will be recorded.

(3) For thermal and catalytic incinerators, if no such periods as described in paragraphs (c)(1) and (c)(2) of this section occur, the owner or operator shall submit a negative report.

(d) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine VOC emissions from each affected facility. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed. Where compliance is achieved through the use of a solvent recovery system, the owner or operator shall maintain at the source daily records of the amount of solvent recovered by the system for each affected facility.

8. In Subpart TT—Standards of Performance for Metal Coil Surface Coating, § 60.465: 1. Paragraph (c) is redesignated as paragraph (e) and revised. 2. New paragraphs (c) and (d) are added.

§ 60.465 Reporting and recordkeeping requirements.

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a written report to the Administrator every calendar quarter of

each instance in which the volume-weighted average of the total mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.462. If no such instances have occurred during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

(d) The owner or operator of each affected facility shall also submit reports as specified in § 60.7(c) when the incinerator temperature drops as defined under § 60.464(c). If no such periods occur, the owner or operator shall submit a negative report.

(e) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine monthly VOC emissions from each affected facility and to determine the monthly emission limit where applicable. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain, at the source, daily records of the incinerator combustion temperature. If catalytic incineration is used, the owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed.

9. In Subpart WW—Standards of Performance for the Beverage Can Surface Coating Industry, § 60.495: 1. Paragraph (b) is revised. 2. Paragraphs (c) and (d) are redesignated as (d) and (e) and revised. 3. New paragraph (c) is added.

§ 60.495 Reporting and recordkeeping requirements.

(b) Following the initial performance test, each owner or operator shall identify, record, and submit quarterly reports to the Administrator of each instance in which the volume-weighted average of the total mass of VOC per volume of coating solids, after the control device, if capture devices and control systems are used, is greater than the limit specified under § 60.492. If no such instances occur during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit as specified in § 60.7(c):

(1) Where compliance with § 60.492 is achieved through the use of thermal incineration, each 3-hour period when cans are processed, during which the average temperature of the device was

more than 28 °C below the average temperature of the device during the most recent performance test at which destruction efficiency was determined as specified under § 60.493.

(2) Where compliance with § 60.492 is achieved through the use of catalytic incineration, each 3-hour period when cans are being processed, during which the average temperature of the device immediately before the catalyst bed is more than 20 °C below the average temperature of the device immediately before the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.493 and all 3-hour periods, when cans are being processed, during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference across the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.494.

(3) For thermal and catalytic incinerators, if no such periods as described in paragraphs (c)(1) and (c)(2) of this section occur, the owner or operator shall submit a negative report.

(d) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine VOC emissions from each affected facility in the initial and monthly performance tests. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain at the source daily records of the incinerator combustion chamber temperature. If catalytic incineration is used, the owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed. Where compliance is achieved through the use of a solvent recovery system, the owner or operator shall maintain at the source daily records of the amount of solvent recovered by the system for each affected facility.

(e) The requirements of this section remain in force until and unless EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with this subsection, provided that they comply with the requirements established by the State.

(Approved by the Office of Management and Budget under control number 2060-0001)

* * * * *

10. In Subpart HHH—Standards of Performance for Synthetic Fiber Production Facilities, § 60.604: 1. The section heading is revised. 2. Paragraph (a)(2) is revised.

§ 60.604 Reporting and recordkeeping requirements.

(a) * * *

(2) The results of subsequent performance tests that indicate that VOC emissions exceed the standards in § 60.602. These reports shall be submitted quarterly at 3-month intervals after the initial performance test. If no exceedances occur during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

* * * * *

[FR Doc. 87-22153 Filed 9-28-87; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 271

[FRL-3267-2]

Final Authorization of State Hazardous Waste Management Program; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking and public comment period.

SUMMARY: Indiana has submitted a revision to its authorized Hazardous Waste Management Program under the Resource Conservation and Recovery Act (RCRA), as amended.

The United States Environmental Protection Agency (EPA) has reviewed Indiana's revision and has made a decision, subject to public review and comment, that Indiana's Hazardous Waste Management program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Indiana's Hazardous Waste Management program revision. Indiana's application for program revision is available for public review and comment.

DATES: Authorization for Indiana's program revision shall become effective November 30, 1987 unless EPA publishes a prior Federal Register action withdrawing this action. Comments on Indiana's program revision must be received by the close of business on October 29, 1987.

ADDRESSES: Copies of Indiana's program revision are available during the business hours of 8:30 a.m. to 4:30

p.m., at the following addresses for inspection and copying:

Indiana Department of Environmental Management, Office of Solid and Hazardous Waste Management, Hazardous Waste Management Branch, 105 South Meridian Street, Indianapolis, Indiana 46206. Contact: Mr. Michael Dalton, (317) 232-8884.

U.S. EPA, Region V, Waste Management Division, Solid Waste Branch, Program Management Section, 230 South Dearborn Street, 5HS-JCK-13, Chicago, Illinois 60604. Contact: Mr. George Woods, (312) 886-6134.

U.S. EPA Headquarters, Library, PM 211A, 401 M Street, SW., Washington, DC 20460, (202) 382-5926.

Written comments should be sent to: U.S. EPA, Region V, Waste Management Division, Solid Waste Branch, Program Management Section, 230 South Dearborn Street, 5HS-JCK-13, P.O. Box A3587, Chicago, Illinois 60604. Attention: Mr. George Woods, (312) 886-6134.

FOR FURTHER INFORMATION CONTACT: Mr. George Woods, U.S. EPA, Region V, Waste Management Division, Solid Waste Branch, Program Management Section, 230 South Dearborn Street, 5HS-JCK-13, Chicago, Illinois 60604, (312) 886-6134.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste management program that is equivalent to, consistent with, and no less stringent than the Federal Hazardous Waste Management program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

In accordance with 40 CFR 271.21 (a) and (e), revisions to State hazardous waste management programs are necessary when Federal or State statutory or regulatory authority is modified or upon certain other changes to EPA's regulations in 40 CFR Parts 260-268, 124 and 270.

B. Indiana

Indiana initially received final authorization on January 31, 1986. On June 29, 1987, Indiana submitted a program revision application for additional program approval. Today, Indiana is seeking approval of its program revision in accordance with 40 CFR 271.21(e).

EPA has reviewed Indiana's revision application and has made a decision, subject to public review and comment, that Indiana's Hazardous Waste Management program revision does reflect the State's equivalency with the Federal program. Consequently, EPA intends to grant Indiana authorization for this program modification. The public may submit written comments on EPA's proposed approval on this revision, up until October 29, 1987. Copies of Indiana's program revision are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

Approval of Indiana's program revision shall become effective 60 days after the date of publication in the *Federal Register* (FR) unless an adverse comment pertaining to the State's revisions, discussed in this notice, is received. If comments pertaining to the revision application or this decision are received, EPA will publish either: (1) A withdrawal of the immediate final decision, or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

Indiana has revised their program to obtain final authorization for the following provisions:

Non-HSWA Cluster I

- 11-13-84—Exclusion of Household Waste (49 FR 44980)
- 11-21-84—Interim Status Standards Applicability (49 FR 46095)
- 12-04-84—Corrections to Test Methods Manual (49 FR 47391)
- 12-20-84—Satellite Accumulation (49 FR 49571)
- 01-04-85—Redefinition of Solid Waste (50 FR 614)
- 04-23-85—Interim Status Standards for Landfill Cover Design Standards (50 FR 16044)

Non-HSWA Cluster II

- 08-20-85—Correction to Redefinition of Solid Waste (50 FR 33541)
 - 05-28-86—Clarification of Spent Pickle Liquor Listing (51 FR 19320)
- Any RCRA hazardous waste permits,

or portions of permits, issued by EPA under the provisions for which the State is applying for authorization, prior to the effective date of authorization, shall be administered by EPA. EPA will suspend issuance of any further permits under the provision for which the State is authorized on the effective date of authorization. EPA had previously suspended issuance of permits for other provisions on January 31, 1986, the effective date of Indiana's authorization for the RCRA program. Indiana is not authorized nor seeking to be authorized to operate the Federal program on Indian Lands. This authority shall remain with EPA.

C. Effect of HSWA on Indiana's Authorization

Prior to the Hazardous and Solid Waste Amendments amending RCRA, a State with Final Authorization would have administered its hazardous waste program entirely in lieu of EPA. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under the amended section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they can take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA applies in authorized States in the interim.

As a result of the HSWA, there will be a dual State/Federal regulatory program in Indiana if today's RCRA authorization is granted. To the extent the authorized State program is unaffected by the HSWA, the State program will operate in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA will administer and enforce these portions of the HSWA in Indiana until the State receives authorization to do so.

Among other things, this will entail the issuance of Federal RCRA permits for those areas in which the State is not yet authorized.

Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision. Until that time the State may assist EPA's implementation of the HSWA under a Cooperative Agreement.

In addition to the eight non-HSWA provisions for which Indiana is seeking authorization at this time, the State's program revision as published in the May 1, 1987, issue of the *Indiana Register* (10 IR 1563), and which became effective on April 15, 1987, encompasses all of the Special HSWA Cluster I provisions promulgated through March 31, 1986. However, in as much as the authorization deadline for these HSWA provisions is July 1, 1989, and because of State resource considerations, Indiana elected not to seek authorization for any of the Special HSWA Cluster I provisions now. The State has indicated that it intends incrementally to pursue authorization for the HSWA provisions, all well in advance of the 1989 deadline.

Today's proposed rulemaking does not include authorization of Indiana's program for any requirement implementing the HSWA. Any State requirement that is more stringent than a Federal HSWA provision will also remain in effect; thus, regulated handlers must comply with any more stringent State requirements.

EPA has published a *Federal Register* notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702-28755, July 15, 1987.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization is for modifications to the State's existing authorized program and is not designed to increase the regulated population. It does not impose any new burdens on small entities.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87-22290 Filed 9-28-87; 8:45 am]

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Notices

Federal Register

Vol. 52, No. 188

Tuesday, September 29, 1987

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[Doc. No. 4662S]

Crop Insurance Availability; Hawaiian Insurance

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of availability of insurance in the State of Hawaii.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice to private insurance companies of the availability of Federal crop insurance in the State of Hawaii under the provisions an Agency Sales and Service Contract with FCIC, and to those private insurance companies selling crop insurance policies in the State of Hawaii, of the availability of reinsurance for such policies of insurance under a Reinsurance Agreement with FCIC.

The provisions of the standards for approval for reinsured companies are contained in 7 CFR Part 400, Subpart L—General Administrative Regulations—Standards for Approval; Standard Reinsurance Agreement were published in the Federal Register on Monday, May 11, 1987 (52 FR 17540), as a final rule setting forth the financial and operational standards for approval to be met by private entities under a Reinsurance Agreement with the Federal Crop Insurance Corporation, effective for the 1988 contract year (beginning on July 1, 1987).

The provisions setting forth the standards for financial requirements for private entities under an Agency Sales and Service Contract are contained in 7 CFR Part 400, Subpart C, published by FCIC as a final rule on Friday, September 19, 1986.

This notice is intended to advise all interested parties of the availability of Federal crop insurance, and the

availability of reinsurance to all qualifying private entities selling crop insurance in the State of Hawaii.

FOR FURTHER INFORMATION CONTACT: Further information with respect to this notice, and on applying for either an Agency Sales and Service Contract or a Reinsurance Agreement for the 1988 contract year, may be obtained from David W. Gabriel, Assistant Manager for Program Administration, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 475-4407.

Done in Washington, DC, on September 17, 1987.

E. Ray Fosse,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-22344 Filed 9-28-87; 8:45 am]

BILLING CODE 3410-08-M

Forest Service

Intent To Prepare Environmental Impact Statement; Fremont National Forest, OR

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to mine approximately 120 million tons of combined gold ore and waste rock from an open-pit gold mine. The ore will be processed using sodium cyanide heap leaching techniques. The Quartz Mountain Project is located in the Bly Ranger District of the Fremont National Forest near the summit of Quartz Mountain Pass.

The National Environmental Policy Act requires an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. Federal, State, local agencies, and other individuals or organizations who may be interested in or affected by the proposed action will be invited to participate in the process (scoping). Input gathered during scoping will be used in preparation of the draft environmental impact statement (DEIS). The scoping process will include:

1. Identifying the potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.

4. Exploring alternatives.

5. Identifying potential environmental effects of the proposed action and alternatives.

6. Determining potential cooperating agencies and task assignments.

The environmental impact statement will be prepared in accordance with existing approved land and resource management plans. A range of alternatives will be examined to deal with the significant issues developed during the scoping process. One alternative will include the no action alternative. Other alternatives will consider different locations for the project facilities, different project sizes, and different rates and methods of mining and processing the ore.

Public meetings are scheduled for mid-October in Lakeview, Bly, and Klamath Falls, Oregon. Notice of meeting dates and locations will be published in local newspapers and posted in public buildings.

The analysis is expected to take about 7 months. The DEIS is expected to be available for public comment and review by spring of 1988. The final environmental impact statement should be completed by summer of 1988.

Orville Grossarth, Fremont National Forest, Forest Supervisor, is the responsible official.

Written comments and suggestions concerning the analysis, questions about the proposed action and environmental impact statement, or information about public meeting dates and places should be directed to, Sherman Radtke, Minerals Staff Officer, Fremont National Forest, 524 North G Street, Lakeview, Oregon 97630 by November 20th, 1987.

Date: September 21, 1987.

Orville D. Grossarth,
Forest Supervisor.

[FR Doc. 87-22366 Filed 9-28-87; 8:45 am]

BILLING CODE 3410-11-M

Packers and Stockyards Administration

Posted Stockyards; Cullman Feeder Pig Association et al.

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term

contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on respective dates specified below.

Facility No., name, and location of stockyard	Date of posting
AL-171—Cullman Feeder Pig Assoc., Hanceville, AL.	June 22, 1987.
AR-163—Ward Livestock Auction, Ward, AR.	July 28, 1987.
IA-259—The Auction Farm, Sheldon, IA....	July 21, 1987.
KY-173—Gateway Livestock Auction, Inc., Mt. Sterling, KY.	May 6, 1987.
MS-162—Glenwild Livestock Auction, Grenada, MS.	May 8, 1987.
MO-263—Lyle Stockyards, Savannah, MO.	May 11, 1987.
MO-264—MFA Livestock Association, Inc., Centerville, MO.	May 26, 1987.
MO-265—Hwy 47 Auction, St. Clair, MO....	June 1, 1987.

Done at Washington, DC, this 23rd day of September, 1987.

Harold W. Davis,
Director, Livestock Marketing Division.
[FR Doc. 87-22420 Filed 9-28-87; 8:45am]

BILLING CODE 3410-KD-M

Proposed Posting of Stockyards; Hwy 20 Horse Auction, et al.

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

- GA-195—Hwy 20 Horse Auction, Canton, Georgia
- GA-196—Sunny Farm Stables, Cumming, Georgia
- GA-197—Southeastern Livestock Co., Quitman, Georgia
- NC-158—Stegall's Livestock and Auction Barn, Concord, North Carolina
- TN-184—Beech River Feeder Pig Sale, Inc., Parsons, Tennessee
- TX-334—Ellis County Livestock, Inc., Waxahachie, Texas
- VA-157—Springlake Livestock Market, Inc., Moneta, Virginia
- VA-158—Farmers Livestock Market, Inc., of Tazewell, Virginia, Tazewell, Virginia

Notice is hereby given that pursuant to authority under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments

concerning the proposed designation, may do so by filing them with the Director, Livestock Marketing Division, Packers and Stockyards Administration, United States Department of Agriculture, Washington, DC 20250, by October 14, 1987.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC, this 23rd day of September, 1987.

Harold W. Davis,
Director, Livestock Marketing Division.
[FR Doc. 87-22421 Filed 9-28-87; 8:45 am]

BILLING CODE 3410-KD-M

Deposting of Stockyards; McCreary Sales Co. et al.

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
IA-123—McCreary Sales Company, Centerville, IA.	May 16, 1959.
IA-157—Kieth E. Myers Enterprises, a Division of Keith E. Myers, Inc., Grundy Center, IA.	June 24, 1966
IA-159—Parks Livestock Auction, Hampton, IA.	Dec. 11, 1961.
IA-165—Iowa Falls Livestock Sales, Iowa Falls, IA.	June 9, 1959.
IA-170—Bingley Sales Company, Knoxville, IA.	Apr. 30, 1957.
IA-182—Belle Plaine Livestock Auction, Inc., d/b/a/ Marengo Livestock Auction, Marengo, IA.	June 3, 1959.
IA-194—Oelwein Livestock Exchange, Oelwein, IA.	June 3, 1959.
IA-195—Ollie Livestock Exchange, Ollie, IA.	June 9, 1959.
IA-230—Washington Livestock Auction, Inc., Washington, IA.	June 4, 1957.
IA-245—Spencer Dairy Auction, Spencer, IA.	Feb. 22, 1973.
IA-254—Producers Livestock Marketing Assn. Feeder Pigs, Creston, IA.	Feb. 5, 1979.
KS-121—Downs Sales Company, Downs, KS.	Apr. 25, 1950.
KS-122—J.J. Livestock Commission Co., Effingham, KS.	May 22, 1959.
KS-124—G&V Cattle Company, Elkhart, KS.	Apr. 13, 1950.
KS-158—Marion Livestock Sales and Commission Co., Marion, KS.	June 2, 1959.
KS-183—Beverly Stockyards Co., Inc., Salina, KS.	Jan. 21, 1936.
KS-185—Wilson Livestock Auction, Salina, KS.	July 14, 1934.
KS-189 Turon Sale Company, Turon, KS..	
MO-142—Halbert Horse Auction, Kansas City, MO.	Dec. 11, 1964.
MO-146—Kirksville Community Sale, Inc., Kirksville, MO.	May 9, 1959.
MO-150—Public Auction Yards, Inc., Lewiston, MO.	May 11, 1959.

Facility No., name, and location of stockyard	Date of posting
MO-161—Midstates Livestock Market, Inc., Maryville, MO.	Oct. 12, 1966.
MO-240—Mountain View Sales Company, Mountain View, MO.	Oct. 8, 1975.
MO-251—SKM Horse Auction, Humphreys, MO.	July 9, 1980.
NB-100—Ainsworth Livestock Market, Ainsworth, NE.	Sept. 6, 1956.
NB-105—Arthur Livestock Commission Company, Arthur, NE.	Feb. 6, 1950.
NB-113—Bloomfield Livestock Auction, Bloomfield, NE.	Apr. 27, 1959.
NB-125—Curtis Livestock Commission Co., Curtis, NE.	Mar. 10, 1958.
NB-134—Geneva Sale Barn, Geneva, NE.	June 9, 1959.
NB-138—Bachman & Lester Company Stock Yards, Grand Island, NE.	Dec. 17, 1931
NB-143—Holdrege Livestock Auction, Holdrege, NE.	Aug. 12, 1967.
NB-156—Nebraska City Sale Barn, Inc., Nebraska City, NE.	June 12, 1965.
NB-168—Plainview Sales Pavillion, Plainview, NE.	May 6, 1959.
NB-186—Farmers Livestock Auction, Inc., Wayne, NE.	June 10, 1959.
MD-105—The Caroline Sales Company, Denton, MD.	Oct. 28, 1959.
NC-102—New River Livestock Market, Boone, NC.	Feb. 9, 1968.
NC-114—Hillsborough Livestock Market, Hillsborough, NC.	Apr. 13, 1959.
NC-118—Lumberton Auction Company, Inc., Lumberton, NC.	July 10, 1959.
NC-119—Norwood Stock Yard, Inc., Marshville, NC.	May 15, 1959.
NC-121—Farmers Livestock Market of Mount Airy, Mt. Airy, NC.	Apr. 2, 1959.
NC-146—R. H. Lanier Horse Auction, Chinquapin, NC.	Sept. 27, 1973.
NC-152—Eastern Carolina Livestock Arena, Rocky Mount, NC.	Apr. 19, 1982.
NC-156—Lucky Dollar Horse Auction, Grifton, NC.	July 31, 1986.
SC-138—Intercoastal Auction Barn, Conway, SC.	Oct. 8, 1985.
TX-174—Georgetown Commission Company, Georgetown, TX.	Mar. 27, 1959.
VT-106—Vergennes Livestock Commission Sales, Vergennes, VT.	Nov. 19, 1959.
VA-113—Galax Livestock Market, Inc., Galax, VA.	Feb. 16, 1968.
VA-114—Farmers Livestock Market, Gate City, VA.	Feb. 16, 1968.
VA-136—Staunton Livestock Market, Inc., Staunton, VA.	Apr. 8, 1959.
VA-140—Farmers Livestock Market, Inc., Tazewell, VA.	Mar. 2, 1959.
VA-143—Woodstock Livestock Market, Inc., Woodstock, VA.	June 10, 1959.
VA-152—Farmers Livestock Market, Inc., Rose Hill, VA.	Nov. 30, 1978.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly depositing a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective upon publication in the **Federal Register**.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.).

Done at Washington, DC, this 23rd day of September, 1987.

[FR Doc. 87-22422 Filed 9-28-87; 8:45 am]

BILLING CODE 3210-KD-M

Rural Electrification Administration**Finding of No Significant Impact;
Dairyland Power Cooperative****AGENCY:** Rural Electrification Administration, USDA.**ACTION:** Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the construction of a new administration building in the City of La Crosse, Wisconsin. The new building site is located in part of the SW- $\frac{1}{4}$, NW- $\frac{1}{4}$ of Section 16, and part of the SE- $\frac{1}{4}$, NE- $\frac{1}{4}$ of Section 17, all in T15N, R7W. The property is approximately 3.4 hectares (8.5 acres), located in La Crosse County, Wisconsin, and will be built by Dairyland Power Cooperative (DPC) of La Crosse, Wisconsin.

FOR FURTHER INFORMATION CONTACT: REA's Environmental Assessment (EA) and FONSI and DPC's Borrower's Environmental Report (BER) may be reviewed at the office of the Director, Northwest Area—Electric, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone number (202) 382-1400; or at the office of Dairyland Power Cooperative, James W. Taylor, Manager, 2615 East Avenue, South, La Crosse, Wisconsin 54602-0817, telephone number (608) 787-1258, during regular business hours. Copies of the BER, EA, and FONSI can be obtained from either of the contacts listed above. All comments or questions should be directed to the REA contact.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request for construction approval from DPC, has reviewed the BER submitted by DPC and has determined that it represents an accurate assessment of the environmental impacts of the proposed project. The project consists of constructing a new administration building which will provide for DPC's entire administrative needs including the new System Operations Center (SOC) in La Crosse County, Wisconsin. REA determined that the proposed project will have no effect on floodplains, wetlands, important farmland, prime rangelands or forest lands, threatened or endangered species or critical habitat, or any property listed or eligible for listing in the *National Register of Historic Places*. No other

matters of potential environmental concern were identified by REA.

Alternatives examined for the proposed project included no action, upgrading existing facilities, constructing a separate new building to accommodate only the new SOC, constructing a new building to accommodate all operations within one building, and alternative sites for construction. REA determined that the proposed construction of a new administration building in the City of La Crosse, Wisconsin, is an environmentally acceptable alternative. The proposed project will maintain the reliability of DPC's existing system and provide for DPC's entire administrative needs including the new SOC. Based upon the BER, REA prepared an EA concerning the proposed project and its impacts. REA has independently evaluated the proposed project, and has concluded that project approval would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an Environmental Impact Statement is not necessary.

In accordance with REA Environmental Policies and Procedures (7 CFR Part 1794), DPC advertised and requested comments on the environmental aspect of the proposed project in the La Crosse Tribune, a public daily newspaper of general circulation. There were no comments.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850-Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related notice to 7 CFR Part 3015 Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Date: September 17, 1987.

Jack Van Mark,
Acting Administrator.
[FR Doc. 87-22364 Filed 9-28-87; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[P77#7]****Endangered Species; Proposed Modification of Permit; Southwest Fisheries Center**

Notice is hereby given that the Southwest Fisheries Center, P.O. Box

271, La Jolla, CA 92038 has requested a modification of Permit No. 413 issued on April 20, 1983 (48 FR 17638), under the Endangered Species Act of 1973 (16 U.S.C. 1531 through 1543), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217 through 222).

Permit No. 413 authorized, among other things, the collection of three male Hawaiian monk seals for captive experimental studies including feeding, disease treatments, and testing of marking techniques. The Holder requests authorization to include research that would involve behaviorally conditioning the seals so that basal metabolic rates can be determined.

Concurrent with the publication of this notice in the *Federal Register*, the Secretary of Commerce is forwarding copies of this proposed modification should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

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

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

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

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Date: September 22, 1987.

Nancy Foster,

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

[FR Doc. 87-22376 Filed 9-28-87; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF ENERGY**Floodplain Statement of Findings for the Industrial Wastewater Pretreatment Facility at the DOE Kansas City Plant, Operated by the Allied Corporation, Bendix Kansas City Division****AGENCY:** Department of Energy.**ACTION:** Statement of findings.

SUMMARY: This document serves to give public notice of the alternative selected by DOE on the proposed Industrial Wastewater Pretreatment Facility. Information contained in this Statement of Findings is presented in support of the decision to construct the Pretreatment Facility at the DOE Kansas City Plant as originally proposed. The related Floodplain Involvement Notification was published in the *Federal Register*, Vol. 52, No. 83, Page 15747, dated April 30, 1987.

DATES: Comments must be filed on or before October 14, 1987.**ADDRESS:** Address any comments or requests to the Albuquerque Operations Office, Department of Energy/EHD, P.O. Box 5400, Albuquerque, New Mexico, 87115. All requests should refer to the project by title.**FOR FURTHER INFORMATION CONTACT:** Earl W. Bean, Area Manager, Kansas City Area Office, Department of Energy, P.O. Box 202, Kansas City, Missouri 64141.**I. Project Description**

The Kansas City Plant resides on a very compact highly developed site within the completed portion of the flood protection system. This project proposes to construct a 37,000 square-foot steel frame building to house industrial wastewater pretreatment equipment. The building will be located in an area east of Building 16 and north of Building 22, part of which is now occupied by a salvaged materials storage lot. In addition to all pretreatment process equipment and tankage, the building will house sludge handling and storage equipment; chemical storage and feed equipment; an office/control room; a laboratory; and restrooms. Site specific information can be obtained through the Kansas City Plant Environmental Assessment (DOE/EA-0002).

The Plant will treat industrial wastewater from the DOE manufacturing facility that presently flows into the south lagoon and then to the City sanitary sewer. Three wastestreams contribute to lagoon influent: (1) Acid wastewater; (2) caustic wastewater; and (3) industrial

wastewaters, as defined by 40 CFR Part 433; plus, other wastewaters from manufacturing and support operations. The pretreatment facility will also treat concentrated solutions from metal finishing processes that are presently hauled off-site for disposal by a subcontractor. The pretreatment facility will treat or remove cyanide; ammonia; metals (including hexavalent chromium and chelated metals); acids; caustics; and organic pollutants.

II. Alternatives

Reasonable alternatives to the action as proposed include the following: (1) No action, and (2) location of the pretreatment facility closer to the Main Plant. Alternative (1) was rejected because the applicable pretreatment standards would be exceeded periodically resulting in noncompliance with these regulations. Alternative (2) was ultimately rejected because sufficient land area is not available near the main facility. The Plant occupies 136 acres, only three percent of which is readily available for future development. With relocation, the pretreatment facility would still be situated in the floodplain as the entire federal complex is located within the 500-year floodplain.

III. Mitigation

Construction of the proposed Industrial Wastewater Pretreatment Plant will have no measurable impact on the basic characteristics of the Blue River floodplain. All construction activities will be within the existing flood protection zone where protection from flooding is provided by a levee constructed by the U.S. Corps of Engineers in 1972. The flood protection system restricts the floodway of the Blue River and Indian Creek from flowing through the Federal Complex. Engineering controls will also be used to reduce damage in the unlikely event that flooding should occur. The tops of containment walls and the floors will be set above the current level of flood protection, which according to the U.S. Army Corps of Engineers is presently providing protection for the 70-year flood. This action will lessen the chance of inundating equipment and stored chemicals. In addition, efforts to further minimize the release of industrial waste to the environment during flooding conditions will include halting the flow of wastewater to the pretreatment facility, that is, stopping factory operations and storing sludge above the current flood protection level. Because of the essentially "fully developed" characteristic of the federal complex, it

is not believed necessary to evaluate effects on flora and fauna in the area.

IV. Determination

Benefits derived from the proposed project, as described in section (I), have been determined to outweigh the potential environmental impacts. As a result of the review of alternatives and evaluation of the environmental impacts, the DOE has determined that there is no practical alternative to the proposed action and that the proposed action has been designed to minimize harm to and within the floodplain. All actions will be in conformity with all applicable State and local ordinances.

The location map for this site is available from Randy F. Reddick, Albuquerque Operations Office, DOE-EHD, P.O. Box 5400, Albuquerque, New Mexico 87115, (505) 846-4340.

Date: August 3, 1987.

Troy E. Wade II,

Acting Assistant Secretary for Defense Programs, Department of Energy.

[FR Doc. 87-22266 Filed 9-28-87; 8:45 am]

BILLING CODE 6450-01-M

Floodplain Statement of Findings for Pedestrian Safety Roadway Relocation at the DOE Kansas City Plant, Operated by the Allied Corporation, Bendix Kansas City Division**AGENCY:** Department of Energy.**ACTION:** Statement of findings.

SUMMARY: This document serves to give public notice of the alternative selected by DOE on the proposed Pedestrian Safety Roadway Relocation project. Information contained in this Statement of Findings is presented in support of the decision to proceed with the roadway relocation as originally proposed. The related Floodplain Involvement Notification was published in the *Federal Register*, Vol. 52, No. 83, Pages 15748-15749, dated April 30, 1987.

DATES: Comments must be filed on or before October 14, 1987.**ADDRESS:** Address comments or requests to the Albuquerque Operations Office, Department of Energy, P.O. Box 5400, Albuquerque, New Mexico, 87115. All comments should refer to the project by title.**FOR FURTHER INFORMATION CONTACT:** Earl W. Bean, Area Manager, Kansas City Area Office, Department of Energy, P.O. Box 202, Kansas City, Missouri 64141.**I. Project Description**

The Kansas City Plant resides on a very compact highly developed site

within the completed portion of the flood protection system. The project will consist of the relocation of part of the existing 95th Street as it runs from Michigan Avenue to the new bridge over the Blue River east of the IRS facility. Pedestrian safety will be increased by minimizing the amount of parking south of the thoroughfare and constructing a pedestrian tunnel under the relocated roadway. This will also provide an expanded security control area directly in front of the main offices of the DOE facility. The increased security will be achieved by creating a fenced outer security buffer zone between the existing perimeter fence and the public roadway.

From the 1940's to 1964, the area south of 95th Street and east of the railroad tracks was a landfill used for the deposition of plant wastes. The proposed roadway relocation is located directly over a portion of the former landfill which is situated on the Federal Complex area. General plant refuse, trash, rubble, and metal shavings were routinely buried. Historical accounts of isolated incidents of disposal of liquids and plating waste have been reported. The landfill is now referred to as the IRS Landfill because of its proximity to the Internal Revenue Service center. The nature of waste in the area has been generally characterized, and data obtained from monitoring wells in the vicinity suggest that the area is a minor source of groundwater contamination.

Six borings were drilled in June 1985, from which a total of 26 split-spoon samples were retrieved. Samples were collected from both the fill and the subjacent alluvium. A total of 22

samples were analyzed for metals. Eight of these samples with high metal concentrations were also subjected to a leach test, applying the EP Toxicity Method to six metals: Cadmium, chromium, copper, lead, nickel, and zinc. A total of nine samples were analyzed for volatile and semivolatile Priority Pollutants. Organic vapors were also monitored during drilling and sampling. An unidentified gas, believed to be methane, was noted in a number of borings.

The results of the leach test demonstrate that none of the samples were hazardous with respect to lead, cadmium, and chromium. Copper, nickel, and zinc are not EP Toxicity metals, so regulatory standards for leachability do not exist. The data indicate, however, that these three metals are not leachable. The site characterization study confirms historical reports of a general refuse landfill without concentrated sources of hazardous waste.

II. Alternatives

Alternative sites for the proposed roadway were considered, but all potential sites are within the same floodplain. Since the roadway will not adversely affect the floodplain, there is no advantage to a "no action" alternative. Flood induced damages to the roadway will be minimal, with some temporary rerouting of city traffic during the period of high water, and consist only of repairs to signal and tunnel lighting.

III. Mitigation

Part of the relocated roadway will cross an area that has been identified as

an abandoned landfill. Analysis of landfill contents by drilling has not revealed any significant hazards. However, to limit surface percolation and to prevent migration of potential pollutants, an impervious seal will be placed under the roadway where it crosses the IRS landfill. This seal will extend beyond the edge of any roadway section a distance sufficient to allow placement of additional seal material to cover a larger area at a later date without jeopardizing the waterproof characteristics of the original seal. The seal will be impervious to methane gas which may be present in small quantities in the landfill. Various methods to be reviewed for sealing the landfill are available; representative samples are given in U.S. Department of Commerce Manuals, PB82-239054, dated March 1982, and AD/AL40-655, dated February 1984.

IV. Determination

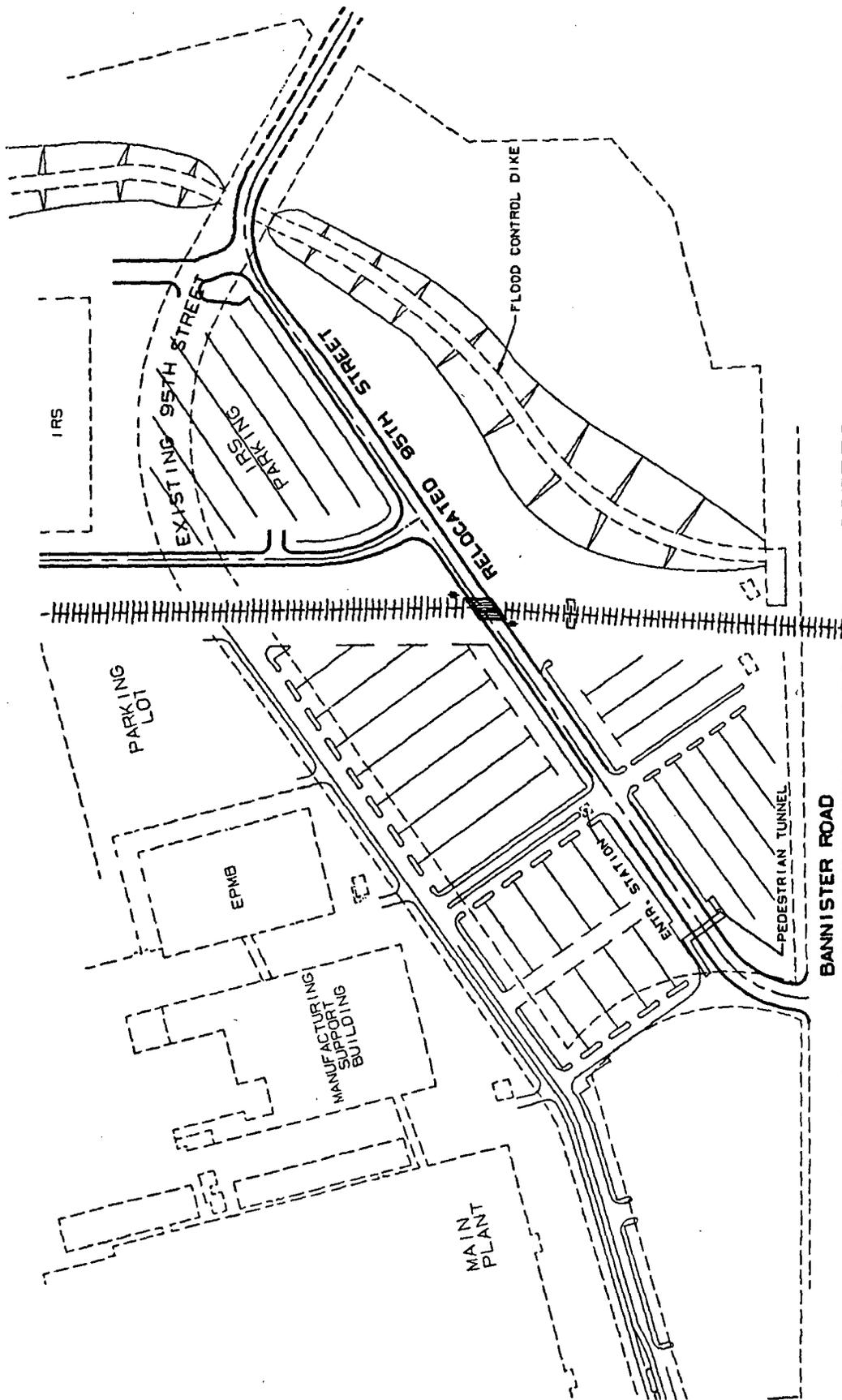
Benefits derived from the proposed project, as described in section (I), have been determined to outweigh the potential environmental impacts. As a result of the review of alternatives and evaluation of the environmental impacts, the DOE has determined that there is no practicable alternative to the proposed action and that the proposed action has been designed to minimize harm to and within the floodplain. All actions will be in conformity with all applicable State and local ordinances.

Date: August 3, 1987.

Troy E. Wade II,

Acting Assistant Secretary for Defense Programs, Department of Energy.

BILLING CODE 6450-01-M



Federal Energy Regulatory Commission

[Project Nos. 7175-009 et al.]

Hydroelectric Applications Filed; Resource Management Co. et al.

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

- a. Type of Application: Surrender of License.
- b. Project No.: 7175-009.
- c. Date Filed: August 11, 1987.
- d. Licensee: Resource Management Company.
- e. Name of Project: Woodruff Narrows.
- f. Location: Occupies, in part, 5.0 acres of U.S. lands administered by the Bureau of Land Management located on Bear River, in Uinta County, Wyoming.
- g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).
- h. Applicant Contact: McNeill Watkins II, Bishop, Cook, Purcell & Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036, (202) 857-9885.
- i. FERC Contact: Thomas Dean, (202) 376-9275.
- j. Comment Date: October 28, 1987.
- k. Description of Project: Project works consisting of: (1) A 620-foot-long, 65-foot-high earthen dam owned by the State of Utah; (2) a 2,312-acre reservoir; (3) a 500-foot-long open channel; (4) a 3,600-foot-long penstock; (5) a powerhouse containing two generating units with a total capacity of 2,500 kW; (6) a 400-foot-long outlet channel; (7) a 1,600-foot-long portion of the Francis-Lee Canal; (8) a 6-mile-long transmission line; and (9) appurtenant facilities.

The license states that it has been unable to secure a purchaser for energy to be generated at the project at a price that will justify investment in the project. The licensee also states that the project cannot be financed at the current rates offered by prospective purchasers.

1. Purpose of Project: The licensee intended to sell the power generated from the proposed facility.

m. Anyone desiring to be heard about this action should submit comments, a protest, or a motion to intervene with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's 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. Any of the above named documents must be filed by providing an original and 14 copies to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426.

- 2 a. Type of Application: Preliminary Permit.
- b. Project No.: 10450-000.
- c. Date Filed: August 5, 1987.
- d. Applicant: Grand Valley Energy Resources, Inc.
- e. Name of Project: Big Drop Canal.
- f. Location: On the Main Line Grand Valley Canal in Mesa County, Colorado.
- g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).
- h. Applicant Contact: Mr. Thomas A. Patterson, Grand Valley Energy Resources, Inc., 662 26 Road, Grand Junction, CO 81506.
- i. FERC Contact: Hector Mr. Perez, (202) 376-1669.
- j. Comment Date: November 16, 1987.
- k. Description of Project: The proposed run-of-river project would consist of: (1) A new weir with trashracks about 200 feet downstream from Road 26; (2) two parallel 250-foot-long, 5.5-foot-diameter pipelines; (3) a new powerhouse with a total installed capacity of 750 kW; (4) a 400-foot-long, 13-kV transmission line; and (5) other appurtenances. Applicant estimates an average annual generation of 3,427,200 kWh to be sold to the Public Service Company of Colorado.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

3. a. Type of Application: Major License.

- b. Project No.: 6329-001.
- c. Date Filed: November 15, 1984.
- d. Applicant: Intermountain Power Corporation.
- e. Name of Project: Oxbow Bend Hydroelectric.
- f. Location: On the South Fork Payette River in Boise County, Idaho, within the Boise National Forest, sections 31 and 32, T9N, R7E, Bosie Meridian.
- g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).
- h. Applicant Contact: Marc A. Auth, Intermountain Power Corporation, 8069 Kiowa Street, Boise, Idaho 83709, (208) 376-7330.
- i. FERC Contract: James Hunter, (202) 376-9814.
- j. Comment Date: November 16, 1987.
- k. Description of Project: The proposed project would consist of: (1) A 30-foot-long, 10-foot-high diversion dam with crest elevation 3,655 feet; (2) a 100-

foot-long, 10-foot-wide streamside intake structure; (3) an 850-foot-long, 12-foot-diameter steel liner within an existing tunnel; (4) a 100-foot-long, 12-foot-diameter buried penstock; (5) a 58-foot-long, 30-foot-wide concrete and steel powerhouse at elevation 3,625 feet containing two generating units, rated at 300 kW and 2,850 kW; (6) a 750-foot-long, 12.5-kV transmission line; and (7) upgrading 12,000 feet of existing road for use as an access road. A concrete chute will be installed opposite the intake to safely pass recreational craft. The estimated project cost in 1985 dollars is \$4,400,000.

This application has been accepted for filing as of May 13, 1982, the submittal date of the Applicant's originally accepted exemption application pursuant to Snowbird, Ltd. et al., 28 FERC ¶ 61,062, issued July 18, 1984.

1. Purpose of Project: Project output would be sold to Idaho Power Company.

m. This notice also consists of the following standard paragraphs: B, C, and D1.

n. Refiling of motions to intervene in this docket is not necessary. This notice supplements the notice issued January 24, 1985, in the light of additional information that has been filed by the Applicant on 4-15-85, 6-3-85, 3-24-86, 10-8-86, and 4-7-87.

4. a. Type of Application: New Minor License.

- b. Project No: 1235-000.
- c. Date Filed: October 3, 1986.
- d. Applicant: City of Radford, Virginia.
- e. Name of Project: Municipal Hydroelectric Plant.
- f. Location: On Little River near Radford, Montgomery and Pulaski Counties, Virginia.
- g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).
- h. Applicant Contact: R.P. Asbury, Jr., 619 Second St., Radford, VA 24141, (703) 731-3603.
- i. FERC Contact: Michael Dees, (202) 376-9830.

j. Comment Date: November 19, 1987.

k. Description of Project: The project as currently licensed consists of: (1) A concrete dam 293 feet long and 58 feet high; (2) a 350-acre reservoir with a gross storage capacity of 1,600-acre-feet as an elevation of 1,760 feet m.s.l.; (3) a 96-inch steel-lined concrete penstock; (4) a powerhouse containing one 1,000-kW hydropower unit; (5) a concrete trailrace; (6) a 69-kV transmission line 2.7 miles long; and (7) appurtenant facilities. There are no plans for future hydropower units or modifications to the existing facilities.

l. Purpose of Project: Project energy is supplied to the City of Radford municipal electric system.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

5 a. Type of Application: Transfer of License.

b. Project No: 2905-008.

c. Date Filed: July 21, 1987.

d. Applicant: Vermont Public Supply Authority and the Village of Enosburg Falls Municipal Water and Light Department.

e. Name of Project: Enosburg Falls Project.

f. Location: On the Missisquoi River in Franklin County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Ms. Frances E. Francis, Spiegel & McDiarmid, 1350 New York Ave., Washington D.C. 20005, (202) 879-400.

i. FERC Contact: Robert Bell, (202) 376-5706.

j. Comment Date: October 28, 1987.

k. Description of Transfer: On July 12, 1983, a license was to the Vermont Public Power Supply Authority (licensee), to construct, operate, and maintain the Enosburg Falls Project 2905. The licensee was granted an amendment to this license on March 17, 1987. The licensee intends to transfer the license to the Village of Enosburg Falls Municipal Water and Light Department (transferee) which will purchase, build and operate the project. Both the licensee and transferee are municipalities.

1. This notice also consists of the following standard paragraphs: B and C.

6 a. Type of Application: Major License (Over 5 MW).

b. Project No.: 9999-000.

c. Date Filed: May 27, 1986.

d. Applicant: City of St. Marys, West Virginia.

e. Name of Project: Willow Island Hydroelectric Development.

f. Location: On the Ohio River near Willow Island, Pleasants County, West Virginia, and Washington County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. James B. Price, West Virginia Hydro Corporation, 120 Calumet Court, Aiken, SC 29801, (803) 642-2749.

i. Comment Date: October 26, 1987.

j. Competing Application: Project No. 6902-003, Date Filed: October 8, 1985.

k. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Willow Island Dam and reservoir and would consist of: (1) A proposed intake waterway 140 feet wide, 22 feet deep, and approximately

300 feet long; (2) a proposed powerhouse, 140 feet by 274 feet, housing two 20,000-kW hydropower units; (3) a proposed tailrace 140 feet wide; (4) a proposed 138-kV transmission line approximately 5,000 feet long; and (5) appurtenant facilities. The applicant estimates that the average annual energy generation would be 181 GWh. The applicant proposes to sell the energy to a power company or other energy user.

1. This notice also consists of the following standard paragraphs: A4, B, C.

7 a. Type of Application: Exemption from Licensing.

b. Project No: 10007-001.

c. Date Filed: February 11, 1987.

d. Applicant: John P. MacMunn.

e. Name of Project: Bunny Run Project.
f. Location: an unnamed Stream which flow into the west Branch of the Pleasant River in the Androscoggin River Basin in the Township of Mason, Oxford County, Maine.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.

h. Applicant Contact: Mr. John P. MacMunn, P.O. Box 92, West Bethel, ME 04286, (207) 836-3375.

i. FERC Contact: Robert Bell, (202) 376-5706.

j. Comment Date: October 30, 1987.

k. Description of Project: The proposed project would consist of: (1) An existing 6-foot-long, 6-foot-high concrete and stone dam; (2) an impoundment having a surface area of 320 acres, with negligible storage, and normal water surface elevation of 1,133 feet m.s.l.; (3) a proposed intake structure; (4) a proposed 2,200-foot-long, 8-inch-diameter PVC penstock; (5) a proposed powerhouse containing one generating unit having an installed capacity of 10kW; (6) a proposed tailrace; and (7) appurtenant facilities. The applicant estimates the average annual generation would be 100,000 kWh.

1. Purpose of Project: The applicant proposes used the power generated domestically and all excess would be sold to Central Maine Power Company.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3A.

8 a. Type of Application: Minor License.

b. Project No.: 9794-001.

c. Date Filed: January 18, 1987.

d. Applicant: City of Kings Mountain, North Carolina.

e. Name of Project: John Henry Moss.
f. Location: Buffalo Creek, Cleveland County, North Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: John Henry Moss, Mayor, City of Kings Mountain, Post Office Box 429, Kings Mountain, NC 28086, (704) 734-0333.

i. FERC Contact: Dean Wright, (202) 376-9820.

j. Comment Date: November 27, 1987.

k. Description of Project: The proposed project would consist of (1) an existing earthfill dam 840 feet long and 99 feet high; (2) an existing reservoir of 1350 acres surface area and 38000 acre-foot volume at a normal maximum surface elevation of 736 feet msl; (3) proposed 12-inch-high flashboards; (4) a proposed reinforced concrete intake structure 40 feet high and 15 feet square; (5) an existing 54-inch-diameter steel penstock 370 feet long; (6) a proposed concrete powerhouse 40 feet long and 20 feet wide housing two proposed turbine-generators with a combined capacity of 1100 kW; (7) a proposed 2.3 kV transmission line 900 feet long; and (8) appurtenant facilities. The net hydraulic head would be 81 feet. The estimated annual energy production is 3.7 GWh. Project power would be used by the applicant. The existing facilities are owned by the applicant.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 10435-000.

c. Date Filed: June 24, 1987.

d. Applicant: EDC Foundation of Chicago.

e. Name of Project: Pumped Storage.

f. Location: Tunnel and Reservoir Plan (TARP) System and Chicago Sanitary and Ship Canal, Chicago, Illinois.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Joseph H. Abel, Executive Director, EDC Foundation of Chicago, 1503 Merchandise Mart, Chicago, IL 60654, (312) 744-9547.

i. FERC Contact: Dean Wright, (202) 376-9821.

j. Comment Date: November 27, 1987.

k. Description of Project: The proposed project would operate as pumped storage and would consist of: (1) The existing Tunnel and Reservoir Plan (TARP) system, a series of existing and proposed deep tunnels; (2) the existing Chicago Sanitary and Ship Canal serving as a surface reservoir of 892 acres and 291 million gallon storage capacity, operating with a maximum drawdown of 12 inches; (3) three proposed 72-inch diameter penstocks, to be installed in existing Metropolitan Sanitary District of Greater Chicago (MSDGC) dropshafts; (4) three proposed

concrete intake structures; (5) a proposed subsurface powerhouse vault enclosing three proposed turbine-pump-generators of 10 MW capacity each; (6) a proposed 13.8 kV transmission line 1500 feet long, and (7) appurtenant facilities. The hydraulic head is 265 feet. Annual generation (not including pumping energy) is estimated to be 87.6 GWh. Project power would be sold to Commonwealth Edison Company. The existing facilities are owned by MSDGC. Applicant estimates the cost of studies to be performed under the permit to be \$215,000.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 10455-000.

c. Date Filed: August 10, 1987.

d. Applicant: DJJ Energy Company.

e. Name of Project: River Mountain Pumped Storage.

f. Location: Arkansas River (Lake Dardanelle) in Logan County, Arkansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Doyle W. Jones, P.E., 902 Highway 270 North, Suite 102, Malvern, AR 72104, (501) 337-4904.

i. FERC Contact: Dean Wright, (202) 376-9820.

j. Comment Date: November 27, 1987.

k. Description of Project: The proposed project would use the existing Lake Dardanelle, a part of the McClellan-Kerr Arkansas River Navigation System owned and operated by the U.S. Army Corps of Engineers, Little Rock District, P.O. Box 867, Little Rock, AR 72203, as a lower reservoir, and would consist of (1) a proposed rockfill embankment 60 feet high and 20 feet wide forming a circular impoundment approximately 2700 feet in diameter; (2) a proposed reservoir of 117 acres surface area and 5400 acre-feet volume at a normal maximum surface elevation of 990 feet NGVD; (3) a proposed reinforced concrete intake structure 95 feet high, 75 feet wide, and 80 feet long; (4) two proposed 16.8-foot-diameter steel penstocks 7200 feet long; (5) a proposed reinforced concrete powerhouse 150 feet high, 180 feet long, and 90 feet wide housing two proposed reversible turbine-pump-generators of 200 MW capacity each; (6) a proposed 500 kV transmission line 8000 feet long; and (7) appurtenant facilities. The estimated annual energy production (based on an annual energy input of 1139 GWh) is 876 GWh. Project power would be sold. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$70,000.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications, must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (10 and (9) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION",

"COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. William C. Wakefield II, Acting Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural and other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. 8251 (b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal request will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be

presumed to have no comments. One copy of an agency's response must also be set to the Applicant's representatives.

D2. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency (ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and

conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: September 24, 1987.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-22397 Filed 9-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-467-014]

Petition To Amend; ANR Pipeline Co.

September 21, 1987.

Take notice that on September 9, 1987, ANR Pipeline Company, (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP79-467-014 a petition to amend the order issued on June 10, 1981, as amended, pursuant to section 7(c) of the Natural Gas Act so as to: (1) Extend the authorization for transportation services provided by ANR for Texas Eastern Transmission Corporation (Texas Eastern) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) through October 31, 2000, and (2) authorize a further modification in the transportation service being provided by ANR for Texas Eastern, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

ANR states that both Texas Eastern and Tennessee purchase Canadian natural gas supplies from ProGas Limited which are imported into the United States at a point on the international boundary near Emerson, Manitoba. ANR further states that from the point of importation, the gas supplies are transported by Great Lakes Gas Transmission Company (Great Lakes) and subsequently redelivered to ANR at a point of interconnection between ANR and Great Lakes near Farwell, Michigan.

ANR indicates that by order dated November 28, 1986, in Docket No. CP79-467-009, ANR was authorized, among other things, to provide downstream transportation for up to 75,000 Mcf of

natural gas per day for Texas Eastern through a period expiring October 31, 1987. By a previous Commission Order issued July 18, 1985, in Docket Nos. CP79-467-003 and CP79-467-005, ANR states it was further authorized to provide downstream transportation for up to a like quantity for Tennessee, also through October 31, 1987. At the time of issuance of each of the aforementioned orders, the termination date of October 31, 1987, was consistent with the then existing import and/or export authorizations, it is stated.

ANR states that by opinion and order issued June 10, 1986, by the Economic Regulatory Administration (ERA) in Docket No. 86-06-NG, Tennessee received authorization to import ProGas gas volumes through October 31, 2000. It is further stated that Texas Eastern has applied to the ERA for import authorization through an identical term. Such application is presently awaiting resolution by the ERA in Docket No. 87-37-NG, it is indicated.

ANR indicates that it currently provides transportation services to Tennessee under Rate Schedule X-121 of ANR's F.E.R.C. Gas Tariff, Original Volume No. 2. Similarly, ANR states it provides transportation services to Texas Eastern under its Rate Schedule X-120. It is asserted that the primary term of the transportation arrangements between ANR and Tennessee, and ANR and Texas Eastern would expire no later than October 31, 2000. Accordingly, for purposes of consistency with the contracts and with the ERA authorization received by Tennessee and that requested by Texas Eastern, ANR requests that the certificate be amended to now authorize the continuation of the transportation services for Texas Eastern and Tennessee through October 31, 2000.

ANR states that currently, Rate Schedule X-120, which covers service for Texas Eastern provides that the contract demand shall not be less than 56,250 Mcf per day for the eighth contract year (November 1, 1987 to November 1, 1988), 37,500 Mcf per day for the ninth contract year (November 1, 1988 to November 1, 1989), 18,750 Mcf per day for the tenth contract year (November 1, 1989 to November 1, 1990), and zero for the eleventh contract year (November 1, 1990 to November 1, 1991). ANR further states that the foregoing arrangements were approved by the Commission on November 28, 1986, in Docket No. CP79-467-009. ANR indicates that ProGas and Texas Eastern entered into a new sales agreement dated November 1, 1986, which superseded the previous sales

agreement. ANR further indicates that ANR and Texas Eastern have modified the existing transportation agreement to conform to the new sales agreement. Specifically, it is stated that the parties have agreed that the contract demand shall be 75,000 Mcf per day for the remaining term of the contract. ANR states that Texas Eastern, however, has reserved the right to reduce the contract demand on 23 months prior notice in conformance with the "Daily Contract Quantity" set forth in the aforementioned superseding sales agreement. To obviate the need of further modification to the certificate, ANR requests authorization to reflect any reduction in contract demand with an appropriate tariff filing made prior to the first day of the contract year wherein a reduced quantity is to be made effective.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 13, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-22404 Filed 9-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP87-111-001 and RP85-169-026]

Proposed Changes in FERC Gas Tariff; Consolidated Gas Transmission Corp.

September 23, 1987

Take notice that Consolidated Gas Transmission Corporation (Consolidated) on September 18, 1987, filed the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff:

Substitute Fourteenth Revised Sheet No. 31

Substitute Alternate Fourteenth Revised Sheet No. 31

Alternate Fifteenth Revised Sheet No. 31
Revised Second Revised Sheet No. 33
Third Revised Sheet No. 33
Alternate Second Revised Sheet Nos. 121 and 128
First Revised Sheet No. 130
Alternate Third Revised Sheet No. 136
Alternate First Revised Sheet No. 137.

The proposed effective dates are September 1 and October 1, 1987. These tariff sheets are being filed (1) to supplement the filing of August 31, 1987, in Docket No. RP87-111-000, which was made in compliance with the Commission's Annual Charge Adjustment Rules promulgated in Order No. 472 issued May 29, 1987, in Docket No. RM87-3-000, and (2) to reduce sales and transportation rates to reflect changes in the federal income tax rate consistent with the requirements of Article XII of the pending Stipulation and Agreement in Consolidated's Docket No. RP85-169, filed February 10, 1986.

Additionally, Consolidated is withdrawing "Second Revised Sheet No. 33" filed on August 31, 1987, in Docket No. RP87-111-000 in order to correct a numbering error.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested States commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All motions or protests should be filed on or before September 30, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-22399 Filed 9-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C187-906-000]

Application for Permanent Abandonment; Estate of Roy Furr

September 23, 1987.

Take notice that on September 16, 1987, the Estate of Roy Furr (Furr), 1306 Broadway, Lubbock, Texas 79401, filed

an application requesting permanent abandonment of a sale of gas to Panhandle Eastern Pipe Line Company (Panhandle) from the O'Loughlin No. 1-17 well, Section 17, Block 2, SA&MG Survey, Bernstein (Upper Morrow) Field, Hansford County, Texas.

Furr states that Panhandle has no market for the subject gas. By letter dated August 18, 1987, Panhandle agreed to release the gas after abandonment authorization is granted. By letter dated August 17, 1987, Phillips 66 Natural Gas Company made a contract offer, valid for 60 days, for purchase of the subject gas, provided that prior abandonment authority is obtained, and provided that Furr obtains a release from the prior dedication to Panhandle. Deliverability is approximately 760 Mcf/d. The gas is NCPA section 104 flowing gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 8, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in a proceeding must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Furr to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-22402 Filed 9-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA88-1-47-000 and RP87-143-000]

Proposed Purchased Gas Adjustment Rate Change; MIGC, Inc.

September 23, 1987.

Take notice that on September 17, 1987, MIGC, Inc. tendered for filing copies of First Revised Sheet Nos. 31B through 31D, Forty-Fourth Revised Sheet No. 32, Alternate Forty-Fourth Revised Sheet No. 32, Forty-Fifth Revised Sheet No. 32, Twelfth Revised Sheet No. 32A, First Revised Sheet No. 38, Alternate First Revised Sheet No. 38, Third Substitute Original Sheet Nos. 39 through 52, and Alternate Third Substitute Original Sheet Nos. 39 through 52 to its FERC Gas Tariff,

Original Volume No. 1, in accordance with the Commission's Rules and Regulations under the Natural Gas Act.

MIGC's Forth-Fourth Revised Sheet No. 32, First Revised Sheet No. 38 and Third Substitute Original Sheet Nos. 39 through 52 provide for an Annual Charge Adjustment Clause ("ACA Clause"), and an Annual Charge Adjustment Rate increase of \$.0018 per MMBtu (\$.0021 per Mcf), to permit MIGC to collect its Omnibus Budget Reconciliation Act charges by means of the ACA Clause alternative, in accordance with FERC Order Nos. 472, *et seq.* MIGC is proposing that the ACA Clause and the Annual Charge Adjustment Rate be made effective October 1, 1987, on less than 30 days' notice. In the event, however, that waiver of the thirty (30) day notice requirement is not granted as hereby requested, MIGC has included Alternate Forty-Fourth Revised Sheet No. 32, Alternate First Revised Sheet No. 38 and Alternate Third Substitute Original Sheet Nos. 39 through 52, all to become effective November 1, 1987.

MIGC's Alternate Forty-Fourth Revised Sheet No. 32 and Forty-Fifth Revised Sheet No. 32 provide for a Purchased Gas Adjustment rate decrease of 88.67 cents per MMBtu, effective November 1, 1987, in order (1) to provide for a current gas cost adjustment to permit MIGC to reflect the lower cost of gas purchases which it is currently incurring (Table II); (2) to provide for an adjustment to MIGC's Unrecovered Purchsed Gas Cost Account as of July 31, 1986 and July 31, 1987 (Table III), and (3) to recover carrying charges as permitted under FERC Order No. 47 (Table IV) as set forth in MIGC's First Revised Sheet No. 31A.

MIGC's First Revised Sheet Nos. 31B through 31D and Twelfth Revised Sheet No. 32A reflect the removal of incremental pricing language from MIGC's tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervent or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before September 30, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervent. Copies of this filing are on file with the

Commission and are available for the public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-22405 Filed 9-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-142-000]

Proposed Changes in FERC Gas Tariff; Mississippi River Transmission Corp.

September 23, 1987.

Take notice that on September 17, 1987, Mississippi River Transmission Corporation (Mississippi) tendered for filing the following tariff sheets to be a part of its FERC Gas Tariff, Second Revised Volume No. 1.

Original Sheet No. 4D

Third Revised Sheet No. 61

Original Sheet No. 61A

Mississippi states that the above referenced tariff sheets were submitted in accordance with Commission Order No. 472, issued May 29, 1987. The proposed changes provide Mississippi with the mechanism to recover from its jurisdictional sales and transportation customers the charges assessed it by the Commission by means of a surcharge of \$.0021 per Mcf. Mississippi further states that at this time it elects to use the Annual Charge Adjustment (ACA) method of recovering those charges assessed.

Mississippi states that Eighth Revised Sheet No. 72 was submitted to reflect current contract and expiration dates.

Mississippi requests that these proposed tariff sheets become effective on October 1, 1987. Mississippi also states that copies of its filing have been served upon its customers and applicable state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 30, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-22400 Filed 9-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-196-004]

Proposed Changes in FERC Gas Tariff; Transcontinental Gas Pipe Line Corp.

September 23, 1987.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on September 17, 1987 tendered for filing certain original tariff sheets to its FERC Gas Tariff Second Revised Volume No. 1. The proposed effective date is September 1, 1987.

Transco states that on August 18, 1987 the Commission issued a certificate of public convenience and necessity which *inter alia*, authorized Transco to provide a new storage service to six distribution company customers under a proposed Rate Schedule SS-1 for a term of 20 years. Transco further states that the Commission's Order also authorized Transco to construct and operate certain pipeline facilities in the states of New Jersey and Pennsylvania.

Transco states that the purpose of the instant filing is to reflect the revisions to the initial proposed SS-1 rates, in accordance with the rate conditions contained in Ordering Paragraphs (L) and (Q) of the Commission's August 18 Order. In that connection, Transco states that Ordering Paragraph (L) required that Transco's firm initial SS-1 incremental transportation rates be redesigned on the basis of a Modified Fixed Variable (MFV) rate design with separate D-1 and D-2 components. Transco states that it is also required to submit workpapers detailing the derivation of the MFV rates, in addition to a breakdown of its operation and maintenance expenses into fixed and variable costs. Further, Transco states that Ordering Paragraph (Q) of the Commission's Order required that Transco revise the initial SS-1 rates to reflect the requirement contained in that ordering paragraph that Consolidated Gas Supply Corporation (Con Gas) charge its fully allocated maximum Rate Schedule TF rate for its firm transportation portion of the SS-1 service in lieu of the lower incremental rate proposal contained in the Con Gas application.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 30, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-22401 Filed 9-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-55-029]

Tariff Filing; Transcontinental Gas Pipe Line Corp.

September 23, 1987.

Take notice that on September 18, 1987, Transcontinental Gas Pipe Line Corporation ("Transco") tendered for filing the revised tariff sheets identified in Appendix A to this Notice. The proposed effective dates of the revised tariff sheets are April 1, 1987 and May 1, 1987.

The purpose of the filing was to revise Transco's sales and transportation rates to reflect the cost allocation and rate design methodology approved for the Transco system by the Commission in Opinion Nos. 260 and 260-A issued in this docket on December 30, 1986 and August 19, 1987, respectively. Transco states that the rates are based on the cost of service and billing determinants contained in Transco's compliance filing of April 1, 1987 in Docket No. RP87-7-007 which was accepted to become effective on said date by the Commission's Order issued May 20, 1987. *Transcontinental Gas Pipe Line Corporation*, 39 FERC ¶ 61,189 (1987).

Transco further states that the tariff rates contained in the revised tariff sheets proposed to be effective April 1, 1987 and May 1, 1987 are based on (i) the cost of gas and fuel components (including where applicable the unit rates attributable to demand charges paid to Sulpetro Limited) which were effective for the relevant periods pursuant to Transco's filing of May 29, 1987 which was approved by the Commission Order issued July 16, 1987

in Docket Nos. TA85-1-29-012 *et al.*, *Transcontinental Gas Pipe Line Corporation*, 40 FERC, ¶ 61, _____ (1987) and (ii) the non-gas cost component of the sales rates derived in accordance with Opinion Nos. 260 and 260-A. The tariff sheets proposed to be effective May 1, 1987 are intended to supercede the tariff sheets proposed to be effective April 1, 1987 in order to take account of the different PGA surcharge adjustments applicable for such periods.

Upon Commission approval of the revised tariff sheets, Transco states that it will make appropriate billing adjustments, including interest, to effectuate the revised rate levels to be effective April 1, 1987 and May 1, 1987.

Transco states that copies of the filing have been served upon its customers, State Commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR, § 385.211 and 385.214). All such motions or protests should be filed on or before September 30, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-22403 Filed 9-28-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3269-3]

Reestablishment of the FIFRA Scientific Advisory Panel

The U.S. Environmental Protection Agency announces the reestablishment of the FIFRA Scientific Advisory Panel following consultation with the Committee Management Secretariat, General Services Administration. Since the statutorily created Panel will terminate on September 30, 1987, EPA has determined that reestablishment of this advisory Panel as a non-statutory committee is in the public interest in connection with the performance of

duties imposed on the Agency by law. The charter which continues this advisory committee for two more years, unless otherwise sooner terminated, will be filed with the appropriate Congressional committees and the Library of Congress. The Panel will operate in accordance with the provisions of the Federal Advisory Committee Act and the rules and regulations issued in implementation of the Act.

FOR FURTHER INFORMATION CONTACT: Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, 202/382-5036.

Date: September 15, 1987.

Kathryn Petrucci,

Director, Management and Organization Division.

[FR Doc. 87-22378 Filed 9-28-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3268-9]

Management Advisory Group to the Construction Grant Programs; Open Meeting

Under Pub. L. 19-483, notice is hereby given that a meeting of the Management Advisory Group to the Construction Grant Program (MAG) will be held at the Loews L'Enfant Hotel, 480 L'Enfant Plaza SW., Washington, DC 20024, beginning at 9:00 a.m., on October 15 and ending at about 1:00 p.m. on October 16, 1987.

The agenda will include a review and discussion of the implementation of provisions of the Water Quality Act of 1987, including the State Revolving Loan Program. The status of privatization of sewage treatment facilities will also be reviewed. The agenda will also include briefings and discussions on other topics of current or future interest to MAG. Any members of the public wishing to make comments are invited to submit them in writing to the Executive Secretary at the meeting.

The meeting will be open to the public. Additional information on the meeting may be obtained from Ms. Vicki Gillispie at the Environmental Protection Agency, WH-547, 401 M Street SW., Washington, DC 20460, telephone number: (202) 382-5859.

Lawrence J. Jensen,

Assistant Administrator for Water (WH-556).

September 22, 1987.

[FR Doc. 87-22382 Filed 9-28-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00247; FRL 3269-9]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) Subpanel to review a set of scientific issues being considered by the Agency in connection with a briefing paper on the Agency's proposed response to a petition from the Center for Science in the Public Interest (CSPI), other environmental advocacy organizations, State government agencies, and public health organizations.

DATE: Thursday and Friday, October 15-16, 1987, from 9:00 a.m. to 4:30 p.m. on Thursday, and 8:30 a.m. to 2:00 p.m. on Friday.

ADDRESS: The meeting will be held at: U.S. Environmental Protection Agency, Room 1112, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By Mail: Stephen L. Johnson, Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-769C), 401 M Street SW., Washington, DC 20460, Office location and phone number: Rm. 1121, Crystal Mall, Building No. 2, Arlington, VA, (703-557-7695).

SUPPLEMENTARY INFORMATION: The agenda for the meeting is:

Review of the scientific issues being considered by the Agency on a briefing paper on the Proposed Response to the CSPI Petition to adopt new guidelines and require more extensive neurotoxicity testing under FIFRA.

In a petition filed on February 12, 1987, CSPI and a group of States, public interest groups, and professional societies are seeking to have EPA, under FIFRA, "issue testing methods necessary to fully assess the neurotoxic and neurobehavioral effects of pesticide active and inert ingredients and require that registrants undertake such tests for priority chemicals detailed herein." The petitioners propose specifically that EPA adopt 7 neurotoxicity guidelines developed by the Office of Toxic Substances and require their use for most chemical categories subject to FIFRA, including inert ingredients. They assert that current data are inadequate for risk assessment of acute or chronic hazards, that the scope of potential hazards is broad, i.e., including sensory, motor, intellectual, and affective effects,

and that current guidelines will neither adequately identify nor characterize these effects. The briefing paper is intended to provide sufficient overview to the issues raised in the petition for technical review by a Subpanel of the Scientific Advisory Panel of the Agency's proposed response. This briefing paper summarizes the petition, summarizes the opinions of numerous professional groups convened to discuss neurotoxicity and neurobehavioral testing, describes current testing requirements and assessments procedures in the Office of Pesticide Programs, analyzes why traditional methods may be inadequate, and proposes a series of changes.

The Agency has convened a Subpanel of the SAP to review the scientific issues on the proposed OPP response. The Subpanel will be chaired by Dr. James Swenberg, a member of the SAP. The members of the Panel are Dr. Debra Cory-Slechta, University of Rochester; Dr. John O'Donoghue, Eastman Kodak; Dr. Donald McMillan, University of Arkansas; Dr. Rudy Richardson, School of Public Health, University of Michigan; and Dr. Hugh Tilson, National Institute of Environmental Sciences.

Copies of documents relating to the item listed above, may be obtained by contacting:

Information Services Branch, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Office location and telephone number: Rm. 240, Crystal Mall No. 2, Arlington, VA, 703-557-2805.

Any member of the public wishing to submit written comments should contact Stephen L. Johnson at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file such statements before the meeting. To the extent that time permits and upon advance notice to the Executive Secretary, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Information submitted as a comment in response to this notice may be claimed confidential by marking

any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket.

Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in Rm. 236 at the address given, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Panel. Persons wishing to make oral/written statements should notify the Executive Secretary and submit 10 copies of written comments and oral written testimony no later than October 8, 1987, in order to ensure appropriate consideration by the panel.

Dated: September 24, 1987.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 87-22518 Filed 9-28-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3269-6]

Superfund Program: Covenants Not To Sue

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment; extension of comment period.

SUMMARY: The Agency is today extending the 60-day public comment period on the interim guidance governing the issuance of covenants not to sue under section 122(f) of SARA by 30 days. The interim guidance was published on July 27, 1987, at 52 FR 28038. In accordance with this extension, comments are due by October 30, 1987.

DATE: Comments must be provided on or before October 30, 1987.

ADDRESS: Comments should be addressed to Jon Fleuchaus, U.S. Environmental Protection Agency, Office of Enforcement and Compliance Monitoring, Waste Enforcement Division, LE-134S, 401 M Street SW., Washington, DC 20460, (202) 382-3077.

FOR FURTHER INFORMATION CONTACT: Jon Fleuchaus, U.S. Environmental Protection Agency, Office of Enforcement and Compliance Monitoring, Waste Enforcement Division, LE-134S, 401 M Street SW., Washington, DC 20460, (202) 382-3077.

Date: September 23, 1987.

Steven L. Leifer,

Acting Associate Enforcement, Counsel for Waste.

[FR Doc. 87-22377 Filed 9-28-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59250; FRL-3268-7]

Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of four applications for exemption, provides a summary, and requests comments on the appropriateness of granting this exemption.

DATE: Written comments by: October 14, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS-59250]" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the TME application received by EPA. The complete non-confidential application is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 87-31

Close of Review Period. October 28, 1987.

Importer. Dai Nippon Printing Company, Ltd.

Chemical. (G) Indophenol derivative. Use/Import. (S) Consumer dye for heat transfer recording material. Import range: 20 to 100 kg/yr.

T 87-32

Close of Review Period. October 28, 1987.

Importer. Dai Nippon Printing Company Ltd.

Chemical. (G) Azomethine dye derivative.

Use/Import. (S) Consumer dye for heat transfer recording material. Import range: 20 to 100 kg/yr.

T 87-33

Close of Review Period. October 28, 1987.

Importer. Dai Nippon Printing Company, Ltd.

Chemical. (G) Indophenol derivative.

Use/Import. (S) Consumer dye for heat transfer recording material. Import range: 20 to 100 kg/yr.

T 87-34

Close of Review Period. October 28, 1987.

Importer. Dai Nippon Printing Company, Ltd.

Chemical. (G) Azomethine dye derivative.

Use/Import. (S) Consumer dye for heat transfer recording material. Import range: 20 to 100 kg/yr.

Date: September 21, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87-22384 Filed 9-28-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3268-8]

National Pollutant Discharge Elimination System; Final Modification of General Permits for Oil and Gas Operations on the Outer Continental Shelf and in State Waters of Alaska, Bering Sea and Beaufort Sea

AGENCY: Environmental Protection Agency.

ACTION: Notice of final modification of NPDES general permits.

SUMMARY: The Regional Administrator, Region 10, (the Region) is modifying the National Pollutant Discharge Elimination System (NPDES) general permits for the Bering and Beaufort seas, which appeared in the Federal Register on June 7, 1984 (49 FR 23734). The Bering Sea general permit (AKG283000) authorizes discharges from offshore

operations in all areas offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) during Federal Lease Sales 70 (St. George Basin) and 83 (Navarin Basin). The Beaufort Sea general permit (AKG284000) authorizes discharges from offshore facilities in areas offered for lease by: (1) MMS during Federal Lease Sales 71 and 87, (2) the State of Alaska in State Lease Sales 36, 39, 43, and 43A, and (3) MMS or the State of Alaska in Federal/State Lease Sale BF and contiguous inshore State lease sales, except for the area generally known as the Stefansson Sound Boulder Patch. Some of the lease blocks offered but not leased under the above-lease sales may be reoffered in 1988 in Lease Sale 97. In this case, EPA will grant coverage under the Beaufort Sea II general permit. The permits do not authorize discharges into any wetlands adjacent to the territorial waters of the State of Alaska or from facilities defined as "coastal" or "onshore" (see 40 CFR Part 435 Subparts C and D).

The Agency is modifying the general permits for the Bering and Beaufort seas in response to the court decision in *American Petroleum Institute, et al., v. EPA, et al.*, 787 F.2d 965 (5th Cir. 1986). The court vacated the condition in both permits prohibiting the discharge of drilling muds containing diesel oil and remanded this condition to the Agency for further proceedings consistent with the opinion. The court vacated the condition because the court determined that EPA had failed to comply with the Agency's regulations in designating diesel oil as an indicator pollutant and in regulating diesel oil as a "toxic" pollutant. EPA believes that today's notice reestablishing the prohibition on the discharge of muds and cuttings contaminated with diesel oil fully complies with the applicable regulations and the court's decision.

Only this condition of the permits has been reopened and modified, in accordance with 40 CFR 124.5(c)(2). All other conditions of the existing permits shall remain in effect. However, in response to a comment, the Region has included definitions of mineral oil and diesel oil. A new administrative record has been developed to support the proposed modification.

The notice of the final general permits (49 FR 23734, June 7, 1984) set forth the principal facts and the significant factual, legal, and policy questions considered in the development of the terms and conditions of the original permits. Region 10 published a notice of proposed modification and detailed fact sheet on August 19, 1986 (51 FR 29600).

The basis for the final modification is given in the fact sheet for the proposed modification (51 FR 29600) and in supplementary information published below.

DATES: This modification to the Bering and Beaufort seas permits shall become effective October 29, 1987, thirty days after publication in the *Federal Register*. These permits shall expire at midnight on May 30, 1989.

ADDRESS: The administrative record for the final modification to the permits is available for public review at EPA, Region 10 at the following address: Environmental Protection Agency, Region 10, Attn: Ocean Programs Section (WD-137), 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Janis Hastings may be contacted at (206) 442-8504 or Anne Dailey may be reached at (206) 442-2110. Both may also be contacted at the above address. Copies of the final modification, response to comments, and today's final notice may be obtained by writing to the above address or by calling Kris Flint at (206) 442-8155.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

- I. Introduction
- II. Statutory Basis for Permit Conditions
- III. Prohibition of the Discharge of Diesel Oil
 - A. Summary of Basis for Modification
 - B. Proposed Effluent Limitation on Diesel Oil
 - C. Diesel Oil as an Indicator of Toxic Pollutants
 - D. Mineral Oil as a Substitute for Diesel Oil
 - E. Cost Considerations
 - F. Alternative to Diesel Oil Prohibition: Removal of Diesel Oil and Oil Limitation
 - G. Environmental Considerations
- IV. Other Legal Requirements
 - A. Oil Spill Requirements
 - B. Endangered Species Act
 - C. Coastal Zone Management Act
 - D. Marine Protection, Research and Sanctuaries Act
 - E. State Water Quality Standards and State Certification
 - F. Executive Order 12291
 - G. Paperwork Reduction Act
 - H. Regulatory Flexibility Act

I. Introduction

The Regional Administrator of Region 10 is today issuing a final modification to the NPDES general permits for the Bering and Beaufort seas. The permits are being modified in response to the court decision in *American Petroleum Institute, et al., v. EPA, et al.*, 787 F.2d 965 (5th Cir. 1986). The court vacated the condition in both permits prohibiting the discharge of drilling muds and cuttings contaminated with diesel oil. The

condition was remanded to the Agency for additional proceedings consistent with the opinion. EPA has also investigated whether mineral oil is an acceptable substitute for diesel oil. EPA believes that today's notice to reestablish the prohibition on the discharge of muds and cuttings contaminated with diesel oil fully complies with the applicable regulations and the court's decision.

On August 19, 1986 (51 FR 29600), the Agency published a notice of the proposed modification to the Bering and Beaufort seas permits, which is being issued in final form today. The public comment period closed on September 19, 1986. Comments and supporting documents on the proposed modification were received from 10 parties. EPA Region 10 requested and received additional information from the American Petroleum Institute (API) as a follow-up to their comments. All of the material submitted during the public comment period and in API's responses to the Region's request is included in the administrative record and was considered in determining the conditions for today's final modification. No public hearing was held since no request to hold a hearing was received.

Region 10 published a detailed document containing supplementary information and a fact sheet for the proposed modification (51 FR 29600). Part I of the fact sheet (Statutory Basis for Permit Conditions) is being included by reference without change as part of the final modification (51 FR 29601-29602). Part II (Prohibition on the Discharge of Diesel Oil) is also included by reference with further detail in several subsections (51 FR 29602-29607). The material in the above mentioned sections of the proposed notice should be consulted in reviewing the applicability and scope of the final modification. (Note that section numbers in the fact sheet differ from those within this document.)

A detailed listing of and response to public comments received on the proposed modification is included in the document entitled "Response to Comments Received on the Proposed Modification to the Bering and Beaufort seas General Permits." The comments and responses have not been printed in today's notice due to their number and length. The document and the original comment letters have been included in the administrative record for the permit modification. The document is being sent to all commenters and is also available upon request from EPA Region 10 at the address listed above.

II. Statutory Basis for Permit Conditions

Sections 301(b), 304, 401, 402, and 403 of the Clean Water Act provide the basis for the permit conditions contained in the permit. The final modified permit condition is a technology-based effluent limitation. Part I of the Draft Notice of Proposed Modification, which further describes the statutory basis for permit conditions, is herein included by reference (51 FR 29601-29602).

III. Prohibition of the Discharge of Diesel Oil

A. Summary of Basis for Modification

The general permits for the Bering and Beaufort seas were challenged by the American Petroleum Institute (API), Atlantic Richfield Company, Conoco Inc., Exxon Corporation, and Mobil Oil Corporation. In a decision dated April 18, 1986, six out of seven challenged conditions were upheld. *API, et al., v. EPA, et al.*, 787 F.2d 965 (5th Cir. 1986). The seventh condition, a prohibition on the discharge of drilling muds containing diesel oil, was vacated and remanded to the Agency for further proceedings consistent with the opinion. The condition was vacated because the court determined that EPA had failed to comply with the Agency's regulations in designating diesel as an indicator pollutant and in regulating diesel as a "toxic pollutant." The court recommended that EPA also analyze the "operational, safety and cost concerns, as well as the actual evaluation of the toxicity of the diesel oil when used solely in the infrequent applications of a 'pill.'"

The fact sheet for the draft permit fully explains EPA's findings with respect to designating diesel oil as an indicator of toxic pollutants. Additional details are presented in the response to comments. EPA also investigated the suitability of mineral oil as a substitute for diesel oil and has concluded that mineral oils perform effectively in applications in which diesel oil has been commonly used in the past. Hence, the permit modification reestablishes the ban on the discharge of diesel-contaminated muds and has been developed to respond to the issues raised by the court. Further information regarding the basis for this modification is presented within the fact sheet (51 FR 29602-29603) and is herein included by reference.

B. Proposed Effluent Limitation on Diesel Oil

The permit modification issued today prohibits the discharge of muds which have been contaminated by diesel oil

(i.e., those drilling muds which have contained diesel oil) or drill cuttings associated with these muds. This prohibition was incorporated in the original permits. Part II.B. (Proposed Effluent Limitation on Diesel Oil) of the fact sheet (51 FR 29603) is herein included by reference.

C. Diesel Oil as an Indicator of Toxic Pollutants

While the limitation on diesel oil controls the toxic as well as conventional pollutants, the Agency's primary concern is control of the toxic pollutants. The pollutant diesel oil is being used as an indicator of the listed toxic pollutants which are controlled through compliance with the effluent limitation (i.e., no discharge). The Region's decision to take this approach is in full compliance with the applicable permitting regulations in 40 CFR 125.3(h)(1). The technology-basis for this limitation is product substitution of less toxic mineral oil for diesel oil. Part II.C. of the fact sheet provides an explanation of why diesel oil is an indicator of toxic pollutants and is herein included by reference (51 FR 29603-29604).

D. Mineral Oil as a Substitute for Diesel Oil

The prohibition of the discharge of diesel oil is a technology-based BAT limitation based on product substitution. As explained in detail in the notice of the proposed modification and associated documents (51 FR 29604-29606), low toxicity mineral oils are available as product substitutes for diesel. In the notice for proposed modification (Part II.D), Region 10 presented information pertaining to (1) the availability and successful formulation and use of chemical additives, (2) the commercial availability of mineral oil spotting fluids, and (3) the demonstrated performance of mineral oil spotting fluids as documented by published case histories and performance statistics. This information is included herein by reference.

API and others have contended that survey data on the relative success rates of diesel oil and mineral oil pills refute the finding that mineral oil is an acceptable substitute for diesel oil. The 1983-1984 API survey of hydrocarbon use (Burgbacher 1985) was described in the proposed modification (51 FR 29605-29606). In analyzing the results, EPA observed the relative performance of the oils cannot be assessed without information on the comparability of drilling situations. In addition to the base oil, numerous other factors could

impact the success of a pill. For example, Love (1983) determined that the chances of freeing stuck pipe in 113 cases and the potential success of freeing the pipe were related to specific conditions at each well. Success decreased with increasing angle of the well, mud weight, amount of open hole, API fluid loss of the mud, and bottom-hole-assembly length. The chances of success dropped off substantially when a numerical index calculated from the above factors exceeded a certain level. In addition to the above factors, pill additive packages (e.g., surfactants, emulsifiers, etc.), rheological properties of the mud, time until spotting, site-specific geological characteristics, and operator experience could affect the outcome of a spotting operation. Critical information on whether these factors were comparable for the wells treated using the two kinds of oil is not included in the API survey. Hence, the relative difficulty of freeing the stuck pipe and fishing cannot be directly compared between the two groups of wells in the API survey. EPA noted that the API survey is inconclusive regarding the relative effectiveness of diesel and mineral oil in freeing stuck pipe. EPA invited any recent or supplementary data on this issue.

API provided comments based on the results and also noted that another industry survey was being conducted during late 1986. To ensure that EPA could fully evaluate the surveys mentioned in API's comments, Region 10 requested that API provide additional information on the design, questions, methods, and forms used in the survey. In response, API submitted copies of forms completed by participants in the 1983-1984 API survey, and an example of the 1983-1986 OOC survey form (Sawyer 1987).

Region 10 has carefully reviewed the comments and all the available data regarding the surveys. This data included information requested from API by EPA regarding the 1983-1984 API survey of pill use (Sawyer 1987) and the 1983-1986 Offshore Operators Committee (OOC) survey (Ayers et al. 1987). Results of the EPA/API Diesel Pill Monitoring Program (U.S. EPA and API 1987) have also become available. A detailed review of this information is contained in the Region's Response to Comments document.

The OOC survey of diesel and mineral oil pill usage was conducted in late 1986 and early 1987 at API's request in response to the Region's "observations and criticisms" of the API survey. The OOC requested more detailed information from operators in the Gulf

of Mexico for a longer period of time (1983 through 1986). Sixteen written responses from 12 oil companies were received. Some companies have more than one operating division, which are represented separately in the survey. OOC's final report lists each respondent separately and the Region has evaluated each respondent, or "operator," individually.

Diesel and mineral oil pill success rates of 52.7 percent and 32.7 percent, respectively, were reported for the OOC survey (Ayers et al. 1987). For multiple-pill sticking incidents, only the first pills at the same depth were included in the statistical calculations, and were recorded as failures since the first attempt was a failure. Multiple sticking incidents at different depths on the same well were analyzed as separate incidents. For the 2287 wells included in the survey, 506 pills were applied, producing an average sticking frequency of 22.1 percent. For both mineral oil and diesel oil, the success rates were greater for straight holes than deviated holes. The OOC survey also indicates that as the time until spotting decreased, the success rates increased. This is particularly true for diesel pills, and apparently less critical for mineral oil applications. When the time until spotting increases from "less than 5 hours" to "more than 10 hours", the success rates drop 19.3 percent (from 60.8 to 41.5 percent) for diesel pills and decrease 3.9 percent (from 34.9 to 31.0 percent) for mineral oil pills (Ayers et al. 1987).

EPA requested copies of the survey forms submitted by participants in the OOC survey. Using these raw data sheets, EPA tabulated a summary inventory by respondent, since such a summary table was not included in the OOC report (Ayers et al. 1987). The tabulation demonstrates that the success rates for mineral oil pills vary considerably among operators. The five respondents with mineral oil pill usage rates greater than 90 percent experienced an average success rate of 37 percent (ranging from 26 to 58 percent) with mineral oil pills. In contrast, the five respondents which reported using mineral oil for 15 percent or less of their stuck pipe incidents were on average successful with less than 16 percent of their mineral oil pills. Some of the operators in the OOC survey achieved extremely high mineral oil pill success rates, which were comparable to the highest diesel pill success rates. The three most successful operators had success rates of 58, 60, and 75 percent. The three operators with the highest diesel pill success rates were calculated

at 60, 60, and 64 percent. While the number of wells varies among the cases and there are fewer cases for mineral oil, the data are the best available on overall success rates for individual operators.

In spite of industry's claim that diesel pills are more effective than mineral oil pills, the OOC survey did show that mineral oil was used by operators in 41 percent of the stuck pipe incidents. Of the 506 incidents in the OOC survey, 298 (59 percent) were treated with a diesel pill, while 208 (41 percent) were treated with a mineral oil pill. For some survey participants, mineral oil was the material of choice. Three respondents out of 16 used mineral oil pills exclusively. It can be concluded that during this period, mineral oil was in common use by operators in the Gulf of Mexico. According to Region 10's records, operators have historically relied on mineral oil pills for exploratory wells in Alaska.

Results to date from EPA/API Diesel Pill Monitoring Program (U.S. EPA and API 1987) shed doubt on the industry's position that mineral oil is not an acceptable substitute for diesel oil in pill applications. The success rate of diesel pills in the DPMP (35.9 percent) as of April 21, 1987 was comparable to that reported for mineral oil pills in the OOC survey (32.7 percent). It is not clear why the diesel pill success rate in the DPMP was lower than that reported in the OOC survey (52.7 percent), since there were no apparent factors that might account for this difference. Both tallies contain data collected in the Gulf of Mexico and include only the first pill of multiple-pill sticking events at a single depth.

EPA acknowledges that the OOC survey is more comprehensive than the earlier API surveys; however, any retrospective analysis is limited by the completeness and accuracy of available records and by the technique for picking representative samples. For this analysis, data had not been collected in such a way that all the parameters expected to affect the success of freeing stuck pipe were measured (see above discussion and Love 1983). Such information is probably difficult to obtain from existing records, and a prospective study would be needed to address these parameters and to ensure that complete information is collected on all wells selected for analysis. In the OOC survey it is unclear why various operators did or did not participate in the survey. Even though OOC studied a large sample of wells, it is difficult to confirm that the sampling methods are valid and that the results accurately

represent the relative performance of the two oils. These considerations lead EPA to determine that only tentative conclusions can be drawn from the surveys.

The success rate with diesel pills was also highly variable over the course of compiling the OOC survey results. The success rates for diesel oil changed significantly in the time between the interim report of the OOC survey presented in a letter dated 11/26/86 from W.G. Frick, API, to Region 10 and the final OOC survey report (Ayers et al. 1987). In the interim report diesel oil and mineral oil have success rates of 47.7 percent and 32.3 percent, respectively. The final report indicates a 52.7 percent success rate for diesel oil and 32.7 percent for mineral oil. To arrive at these final values, the diesel pill episodes included after the interim report had a success rate of 69.5 percent (41 successes out of 59 attempts). This diesel pill success rate is unusual because it is much higher than any other reported, even for any individual company in the OOC survey. This example highlights the variability in the success rates depending on which groups of wells are analyzed.

In summary, EPA has carefully considered the survey data and believes that final conclusions regarding the relative performance of mineral oil pills under best operating conditions cannot be drawn solely from these surveys. The results are best evaluated in the context of all other data available to the Region on the relative performance of mineral oil pills. Such data support the Region's conclusion that mineral oil-based fluids have a demonstrated product development and performance as substitutes for diesel oil-based fluids. This determination is based on the following: (1) availability, successful formulation and use of chemical additives that are compatible with mineral oils, (2) commercial availability of mineral oil spotting fluids, (3) the demonstrated performance of mineral oil spotting fluids documented by published case histories, and (4) performance statistics from the 1983-1984 API surveys, the 1983-1986 OOC survey, and the Diesel Pill Monitoring Program. For additional details see Part II.D. of the fact sheet (51 FR 29604-29606) and the Response to Comments document.

E. Cost Considerations

EPA has evaluated the cost of the diesel oil prohibition based on product substitution as a treatment technology. Operators are not prevented from using diesel oil and barging the contaminated

mud for land disposal to meet the permit terms. The costs associated with this alternative have not been evaluated since barging is not the technology basis for the effluent limitation. Based upon a detailed evaluation of cost considerations presented in Part II.E. of the fact sheet (51 FR 29606), EPA concluded that the cost associated with the prohibition on the discharge of diesel oil is clearly economically achievable for Alaskan offshore operations. This cost estimate included the mineral oil itself, its storage and transport, and pill additives.

API commented that if EPA maintains that mineral oil is a product substitute for diesel, then the "cost of that technology must include the added costs attributable to its lack of equivalence (e.g., the added cost of redrilling/sidetracking and the cost of barging and disposing of muds that have contained diesel)."

As explained in Part II.E. of the fact sheet (51 FR 29606) and noted above, since product substitution rather than barging is the technology basis for the effluent limitation, EPA did not evaluate the costs of barging diesel-contaminated mud systems. EPA did determine that the increased cost due to the barging of mineral oil pills, if they were removed from the mud system after use, would be 0.05 percent or less of the total drilling cost.

In estimating the cost of redrilling or sidetracking, API noted that of an average 16 exploratory wells drilled annually on the Alaskan OCS, 5 sticking events per year would be expected. To arrive at this estimate, API extrapolated the data from the "Gulf of Mexico survey" (API 1983-1984 survey) to the Alaskan OCS. Based upon this extrapolation, API also stated that 1 of the 5 wells stuck annually would be "needlessly lost" (i.e., would require redrilling or sidetracking) if only mineral oil pills were used. This estimate was based on the API survey's 48 percent success rate for diesel pills (i.e., 2 to 3 wells) and 33 percent success rate for mineral oil pills (i.e., 1 to 2 wells). (The differential suggests that one well would be redrilled/sidetracked as a result of the diesel ban.) API estimated that sidetracking or redrilling the one well lost due to the diesel ban would cost the industry an additional \$10 million annually (minimum drilling cost of one well on the Alaskan OCS as stated in the API comment letter) beyond costs outlined in the proposed permit modification.

EPA believes that the assumptions and extrapolations used by API are not appropriate for the Alaskan OCS and cause an unrealistically high estimate of

costs associated with the diesel prohibition. First, API assumed that 5 of the 16 wells drilled annually on the Alaskan OCS would have sticking events and that one would require sidetracking or redrilling if only mineral oil pills were used. The 31 percent (5 out of 16) rate of sticking assumed by API is unrealistically high. The 1983-1986 OOC survey and the API survey report sticking rates of 22 percent and 29 percent, respectively. (The "sticking rate" in both the API and OOC surveys is defined as the number of pills applied divided by the number of wells included in the survey. Hence, a frequency of sticking of 22 percent does not mean that 22 percent of all wells had a sticking event; due to multiple sticking events on individual wells, the percentage of wells involved in sticking events is expected to be somewhat less.) Further, both the OOC and API surveys include data from the Gulf of Mexico, not the Alaskan OCS.

In contrast, EPA Region 10 records indicate that the sticking rate for offshore Alaskan wells is approximately 1 in 10 (10 percent), where sticking is indicated by application of a spotting fluid. EPA records indicate that out of over 40 exploratory wells drilled on the Alaskan OCS from 1984 through early 1987, only 5 wells have had sticking events which necessitated an application of spotting fluid. This is in contrast to the 5 wells *annually* with sticking events assumed by API. The reason for this difference may be attributable to the fact that only exploratory drilling is included in the Alaskan calculation. The Gulf of Mexico survey data includes developmental drilling, which usually involves a greater percentage of high angle wells. High-angle wells are generally at greater risk for sticking.

In addition, EPA questions API's conclusions regarding the success differential between mineral oil and diesel oil pills. As noted above, EPA questions the reliability of the data from the recent Offshore Operators Committee (OOC) survey of spotting fluid use on the Gulf of Mexico for drawing such conclusions. The OOC results also show that the success rates for mineral oil pills vary considerably. Some of the participants achieved high success rates, which were comparable to the highest diesel pill success rates. Nonetheless, results from the EPA/API Diesel Pill Monitoring Program indicate that the success rate of diesel applications (35.9 percent) was considerably lower than those reported for diesel oil in the OOC survey and comparable to the overall success rate reported for mineral oil pills in the OOC

survey (32.7 percent). There is no apparent reason for the different success rates as indicated in Part II.D. above.

The combination of (1) fewer sticking events reported on the Alaskan OCS than estimated by API and (2) the potential for achieving high success rates with mineral oil pills, indicates that the number of wells requiring redrilling or sidetracking due to the diesel prohibition is likely significantly less than the 1 in 16 wells suggested by API.

Even using API's differential success rate of 15 percent between diesel oil and mineral oil (48 percent minus 33 percent) and using the observed sticking rate for the Alaskan OCS of 1 well in 10, then costs of sidetracking or redrilling would be 0.5 percent or less of annual drilling costs. (On the average, 1.6 wells experience sticking per year, 0.24 would require sidetracking or redrilling at a cost of \$10 million per well, and the base cost per well is \$30 million.) Furthermore, the costs incurred during redrilling or sidetracking a well could be less than API's estimate if only a portion of the well required redrilling. Also, as noted by API, if an operator expected to use diesel oil and barge the contaminated muds, the increased cost for that well would be even lower, approximately \$200,000 to \$400,000. EPA does not however agree that the additional costs quoted by API would need to be incurred as a result of the diesel prohibition.

In conclusion, EPA has evaluated the cost associated with the diesel prohibition and has determined that it clearly is economically achievable for Alaskan offshore operations.

F. Alternative to Diesel Oil Prohibition: Removal of Diesel Pill and Oil Limitation

One alternative to the diesel oil prohibition would be to allow the discharge of drilling muds in which a diesel pill had been used, provided that the pill is removed and the residual drilling mud meets specified limitations on oil content and/or toxicity. Such an approach depends on accomplishing effective pill removal such that the drilling mud can meet all other effluent limitations. The oil content and/or toxicity limitation would be set at a level which not only reflects BAT control of toxic pollutants in diesel oil but also provides adequate safeguards for the marine environment. The effectiveness of pill recovery in removing diesel oil from drilling muds is being addressed by the EPA/API Diesel Pill Monitoring Program (DPMP). While industry commenters requested

extension of this program to Alaska, the Region expects the study to be concluded shortly. Also, the Region believes that extending the program to Alaska is unnecessary for the purpose of determining the effectiveness of pill removal in reducing the diesel oil content and toxicity of the discharged mud.

Results from the first 9 months of the DPMP show that pill removal is not very effective in controlling diesel oil content and toxicity of the discharged drilling mud. Results presented in the Fourthly Quarterly Report (4/23/87) include complete analyses of 34 pill episodes (U.S. EPA and API 1987). Both the pill and a buffer (50 barrels of mud both before and after the pill) were removed from the mud system for only 24 of these 34 episodes. Chemical analyses for these 24 cases show that after pill and buffer removal an average of 10,369 mg/kg (or ppm) of diesel oil remains in the mud. This level of diesel oil is toxic to marine organisms; in seawater, diesel oil is acutely toxic to various organisms at concentrations as low as 0.1 to 1000 ppm. Bioassays of mud samples taken after pill removal show LC_{50} values ranging from 0.01 to 5.50 percent of the suspended particulate phase (SPP) and have an average LC_{50} of 1.01 percent SPP. In only 1 of the pill episodes were the samples after pill and buffer removal less toxic than the toxicity limitation (i.e., above the minimum LC_{50} limitation of 3 percent SPP). In summary, both chemical analyses and bioassays indicate that pill removal techniques are inadequate in reducing either the diesel oil content or the toxicity of the mud system after addition of a diesel pill.

DPMP results to date indicate that the toxicity of drilling muds increases with their diesel oil content, but that pill recovery techniques currently in use are not capable of removing up to 30 percent of the diesel oil added as a pill.

Based on results available, the Region has concluded that the recovery techniques being implemented in the DPMP to date are not successful in recovering the diesel and reducing mud toxicity to an acceptable level. Hence, the Region has determined that the prohibition on the discharge of drilling fluids and cuttings contaminated with diesel oil is appropriate for the BAT level of control. Should new information from the study result in conclusions contrary to those drawn from the preliminary results, the Region will consider such new information in future permit decisions.

G. Environmental Considerations

The prohibition on the discharge of diesel oil is a technology-based BAT

limitation designed to control the discharge of toxic pollutants present in diesel oil. An environmental assessment under section 403(c) was therefore not the basis for the limitation. EPA has, however, considered the general environmental effects of diesel oil-contaminated muds in developing the proposed diesel oil prohibition. Part II.G. of the proposed modification (51 FR 29607) further explains environmental considerations and is herein included by reference.

IV.—Other Legal Requirements

A. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permits are excluded from the provisions of section 311. However, these permit modifications do not preclude the institution of legal action or relieve permittees from any responsibilities, liabilities, or penalties for other, unauthorized discharges of oil and hazardous materials which are covered by section 311 of the Act.

B. Endangered Species Act

Based on information in the Final Ocean Discharge Criteria Evaluations and in the Final Environmental Impact Statements prepared for the lease sales covered by the general permits, EPA has concluded that this permit modification will have no adverse effect on the continued existence of any endangered or threatened species or on its critical habitat. EPA requested comments from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Both agencies concurred with EPA's determination.

C. Coastal Zone Management Act

The proposed modifications and consistency determinations were submitted to the State of Alaska for state interagency review at the time of public notice. The State of Alaska has concurred that the activities allowed by this permit are consistent with local and State Coastal Management Plans.

D. Marine Protection, Research and Sanctuaries Act

No marine sanctuaries as designated by this Act exist in the vicinity of the permit areas.

E. State Water Quality Standards and State Certification

The State of Alaska has certified pursuant to section 401 that the discharges authorized in state waters by this permit comply with state water quality standards and regulations.

F. Executive Order 12291

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in these draft modifications under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Most of the information collection requirements have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

H. Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that these permit modifications will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 FR 5024 et seq. (February 9, 1984). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: September 15, 1987.

Robie G. Russell,

Regional Administrator, Region 10.

Ayers, R.C., Jr. J.E. O'Reilly, and L.R. Henry.
1987.

Offshore Operators Committee Gulf of Mexico Spotting Fluid Survey. April 1, 1987. 3 pp. plus attachments.

Burgbacher, J. 1985.

Letter dated October 30, 1985, to Dennis Ruddy, Industrial Technology Division, EPA, with two-page attachment.

Frick, W.G. 1986.

Letter dated November 26, 1986, to EPA, Region 10 re: Supplemental Comments to the Proposed Modification of NPDES General Permits, 51 FR 29600.

Love, R.E. 1983.

Stickiness factor—a new way of looking at stuck pipe. Proceedings, IADC/SPE 1983 Drilling Conference, New Orleans, LA. Paper No. IADC/SPE 11383.

Sawyer, C.T. 1987.

Letter dated 1/20/87 from C.T. Sawyer, API, to Robert S. Burd, EPA, re: Proposed modification of NPDES general permits. Attachments.

U.S. Environmental Protection Agency and American Petroleum Institute. 1987. Diesel Pill Monitoring Program. Report Number Four. Prepared for the Fourth Meeting of the Diesel Pill Monitoring Program Oversight Committee, April 23, 1987.

**NPDES General Permit Numbers
AKG283000 (Bering Sea) and
AKG284000 (Beaufort Sea)**

For the reasons set forth above, EPA is modifying NPDES Permit No. AKG283000 (Bering Sea) and Permit No.

AKG284000 (Beaufort Sea) published June 7, 1984 (49 FR 23734) by incorporating the following provisions:

II.A.1. General Requirements

a. * * * * *

Effluent characteristic	Discharge limitation	Monitoring requirements		Reported value(s)
		Frequency	Method	
Diesel oil content of drilling muds.....	No discharge of diesel oil.....

* * * * *

b. *Prohibition on the discharge of oil-based muds or diesel oil and associated cuttings.* The discharge of oil-based drilling muds (containing oil as the continuous phase with water as the dispersed phase) is prohibited. The discharge of water-based drilling muds which have contained diesel oil or of cuttings associated with any muds which have contained diesel oil is also prohibited. Compliance with the limitation on diesel oil shall be demonstrated by analysis of drilling mud collected from the end-of-well mud system. In all cases, the determination of the presence or absence of diesel oil shall be based on a comparison of the GC spectra of the sample and of diesel oil in storage at the facility (see Part II.A.1.a., above).

* * * * *

III.D. *Definitions*

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31. "Diesel oil" means the class of distillate fuel oil typically used in conventional oil-based drilling fluids which contains a number of toxic pollutants. For the purposes of this permit, "diesel oil" refers to the fuel oil present at the facility.

32. "Mineral oil" means a class of low volatility petroleum product, generally of lower aromatic hydrocarbon content and lower toxicity than diesel oil.
[FR Doc. 87-22383 Filed 9-28-87; 8:45 am]
BILLING CODE 6560-50-M

Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010636-024.
Title: U.S. Atlantic-North Europe Conference.

Parties:
Atlantic Container Line, B.V.
Dart-ML Limited
Hapag-Lloyd AG
Sea-Land Service, Inc.
Gulf Container Line (GCL), B.V.
Trans Freight Lines
Compagnie Generale Maritime (CGM)
Nedlloyd Lijnen, B.V.

Synopsis: The proposed amendment would provide for allowances to shippers performing direct overland transportation from a party's discharge port in lieu of the party providing overland transportation from the discharge port to the bill of lading port in connection with alternate port service between designated European Continental port pair combinations.

By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.
Dated: September 24, 1987.
[FR Doc. 87-22394 Filed 9-28-87; 8:45 am]
BILLING CODE 6730-01-M

controversy between Matson and Young Brothers, Limited ("Young Bros."), an intrastate barge carrier operating in Hawaii. The controversy concerns Federal Maritime Commission jurisdiction over certain ocean cargo movements between ports and points outside the State of Hawaii and islands within the State of Hawaii. Matson seeks a declaration by the Federal Maritime Commission that Matson's interisland carriage of cargoes having origin points in the mainland United States or foreign countries and moving through warehouse or distribution centers on Oahu is interstate commerce subject to the exclusive regulatory jurisdiction of the Federal Maritime Commission.

The petition was served on Young Bros. and its counsel, and the Public Utilities Commission of the State of Hawaii and those parties may file a reply to the petition with the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 on or before November 13, 1987. An original and fifteen copies of such replies shall be submitted and a copy thereof served on David F. Anderson, Esq., Matson Navigation Company, Inc., Post Office Box 7452, San Francisco, California 94120, and C. Jonathan Benner, Esq., Benner, Burnett & Coleman, 1401 New York Avenue, NW., Washington, DC 20005. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 11101. Participation by persons other than those named above will be permitted only upon grant of a petition to intervene by the Commission pursuant to Rule 72 (46 CFR 502.72). Petitions for leave to intervene shall be submitted on or before the reply date and shall be accompanied by intervenor's complete reply including its

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal

[Docket No. 87-18]

Filing of Petition for Declaratory Order; Matson Navigation Co., Inc.; Transportation of Cargoes Between Ports and Points Outside Hawaii and Islands Within the State of Hawaii

Notice is given that a petition for declaratory order has been filed by Matson Navigation Company, Inc. ("Matson") requesting that the Federal Maritime Commission resolve a

factual and legal presentation in the matter.

Joseph C. Polking,
Secretary.

[FR Doc. 87-22395 Filed 9-28-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; First National Cincinnati Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 15, 1987.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First National Cincinnati Corporation*, Cincinnati, Ohio; to acquire 100 percent of the voting shares of The First National Bank, Sidney, Ohio.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Merchants Bancshares, Inc.*, Bay St. Louis, Mississippi; to become a bank holding company by acquiring 80 percent of the voting shares of Merchants Bank & Trust Company, Bay St. Louis, Mississippi.

C. Federal Reserve Bank of Chicago (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *CNB Bancorp, Inc.*, Danville, Illinois; to acquire 96.2 percent of the voting shares of Lake Shore National Bank, Danville, Illinois. Comments on this application must be received by October 13, 1987.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *FNB Financial Corp.*, Scottsville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers National Bank, Scottsville, Kentucky.

2. *Security Bancshares, Inc.*, Charleston, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of First Security State Bank, Charleston, Missouri, and 96.5 percent of The National Bank of Caruthersville, Caruthersville, Missouri.

3. *Trenton Bancshares, Inc.*, Trenton, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Commerce, Trenton, Tennessee.

E. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Linton Bancshares, Inc.*, Bismarck, North Dakota; to become a bank holding company by acquiring at least 95 percent of the voting shares of The First National Bank, Linton, North Dakota.

F. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Tulsa National Bancshares, Inc.*, Tulsa, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Tulsa National Bank, Tulsa, Oklahoma. Comments on this application must be received by October 13, 1987.

G. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *ENB Holding Company*, Escondido, California; to acquire 100 percent of the voting shares of San Marcos National Bank, San Marcos, California.

Board of Governors of the Federal Reserve System, September 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-22335 Filed 9-28-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Minonk Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval

under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 19, 1987.

A. Federal Reserve Bank of Chicago (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Minonk Bancshares, Inc.*, Minonk, Illinois; to acquire 32.1 percent of the voting shares of Washburn Bancshares, Inc., Washburn, Illinois, and thereby indirectly acquire The Washburn Bank, Washburn, Illinois. *Comments on this application must be received by October 16, 1987.*

2. *Washburn Bancshares, Inc.*, Washburn, Illinois; to become a bank holding company by acquiring at least 50 percent of the voting shares of The Washburn Bank, Washburn, Illinois. *Comments on this application must be received by October 16, 1987.*

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Monticello Bankshares, Inc.*, Monticello, Kentucky; to acquire at least 35 percent of the voting shares of Bank of Clinton County, Albany, Kentucky.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Somerset Bancshares Corporation, Inc.*, Somerset, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Somerset National Bank, Somerset, Texas.

Board of Governors of the Federal Reserve System, September 23, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-22336 Filed 9-28-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Shares of Banks or Bank Holding Companies; Change in Bank Control Notice; Robert L. Swanson

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 14, 1987.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. Robert L. Swanson, Moraga, California, and Dewey F. Bargiacchi, Alameda, California; to acquire 11.90 percent of the voting shares of Bay Commercial Services, San Leandro, California, and thereby indirectly acquire Bay Bank of Commerce, San Leandro, California.

Board of Governors of the Federal Reserve System, September 23, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-22337 Filed 9-28-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Prevention Centers Grant Review Committee; Establishment

ACTION: Notice of reestablishment, Prevention Centers Grant Review Committee.

Pursuant to Federal Advisory Committee Act, 5 U.S.C. Appendix 2, the Centers for Disease Control announces the reestablishment of the following

Federal advisory committee by the Secretary of Health and Human Services: Designation: Prevention Centers Grant Review Committee.

Purpose: This Committee will provide advice and guidance to the Secretary, the Assistant Secretary for Health, and the Director, Centers for Disease Control, regarding the scientific merit of grant applications received from schools of public health, schools of medicine, and schools of osteopathy relating to the establishment, maintenance, and operation of centers for research and demonstration with respect to health promotion and disease prevention.

Authority for this committee will expire July 25, 1988, unless the Secretary of Health and Human Services, with the concurrent of the Committee Management Secretariat, General Services Administration, formally determines that continuance is in the public interest.

Dated, September 23, 1987.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Control.

[FR Doc. 87-22354 Filed 9-28-87; 8:45 am]

BILLING CODE 4160-70-M

Injury Research Grant Review Committee; Meeting

ACTION: Notice of meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), the Centers for Disease Control (CDC) announces the following committee meeting.

Name: Injury Research Grant Review Committee.

Time and Date: 9 am-4:30 pm—October 26, 1987; 8 am-3pm—October 27, 1987.

Place: Colony Square Hotel, Peachtree and 14th Street, Brookwood Room, Atlanta, Georgia 30361.

Status: Open.

Purpose: This Committee is charged with advising the Secretary, Department of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the scientific merit and technical feasibility of grant applications relating to the support of Injury Control Research and Demonstration Projects and Injury Prevention Research Centers.

Matters To Be Discussed: This meeting will review the Injury Prevention Research Centers and Research and Demonstration Grants Program's past funding decisions and review the program's progress to date. Following the review of funding decisions and progress to date, future

funding needs will be identified. The Committee will conclude the meeting with prioritized recommendations for future funding. Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE

INFORMATION: James Monroe, Injury Epidemiology and Control, Center for Environmental Health and Injury Control, CDC, 1600 Clifton Road, NE., Atlanta, Georgia, 30333, telephones—FTS: 236-4690; Commercial: 404/454-4690.

Dated: September 23, 1987.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 87-22355 Filed 9-28-87; 8:45 am]

BILLING CODE 4160-18-M

Health Resources and Services Administration

Maternal and Child Health Research Grants Review Committee; Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1987:

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: November 16-18, 1987, 9:00 a.m.

Place: Maryland Room, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on November 16, 1987, 9:00 a.m.-10:00 a.m.—Closed for remainder of meeting.

Purpose: To review research grant applications in the program area of maternal and child health administered by the Bureau of Health Care Delivery and Assistance.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Maternal and Child Health, who will report on program issues, Congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on November 16, at 10:00 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552(c)(6), Title 5 U.S.C. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Pub. L. 92-463.

Anyone requiring information regarding the subject Council should

contact Gontran Lamberty, Dr.Ph.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 6-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301)443-2190.

Agenda Items are subject to change as priorities dictate.

Date: September 24, 1987.

Jackie E. Baum,
Advisory Committee Management Officer,
HRSA.

[FR Doc. 87-22398 Filed 9-28-87; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Health Resources and Services Administration; Title V of the Social Security Act and Field Engineering and Facility Management Services; Delegation of Authority

Notice is hereby given that in furtherance of the delegations of authority of September 1, 1982, and September 1, 1984, by the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration (HRSA), the Administrator, HRSA, has delegated to the Director, Bureau of Maternal and Child Health and Resources Development, with authority to redelegate, the following authorities:

(1) All of the authorities under Title V of the Social Security Act pertaining to the Maternal and Child Health Services Block Grant, excluding the authorities to promulgate regulations, to submit reports to the Congress, to take final action to withhold funds from States, and to act under the nondiscrimination provisions of the Act.

(2) All of the authorities for field engineering and facilities management services as indicated below:

(a) All administrative authorities relating to engineering, facilities planning and construction, and direct Federal special-purpose construction activities.

(b) Authority to approve the expenditure of funds within specified limits set by the Director, Office of Management, as certified to the Assistant Secretary for Health as available for design, construction, and related services pertinent to projects administered by the Public Health Service.

(c) Authority to request from the Administrator, General Services Administration, a modification or waiver as stated in section 6 of Pub. L. 90-480, on a case-by-case basis, of such standards issued for design,

construction, and alteration of buildings, as defined in Pub. L. 90-480, as may be necessary to ensure that the physically handicapped have access to, and use of buildings as defined in Pub. L. 90-480.

These delegations superseded the following delegations:

(1) The May 5, 1982, delegation by the Acting Administrator, Health Services Administration, to the Director, Bureau of Community Health Services, vested in the Director, Bureau of Health Care Delivery and Assistance, via the Reorganization Order of September 1, 1982, as it pertains to Title V of the Social Security Act.

(2) The September 20, 1984, delegation by the Administrator, Health Resources and Services Administration, to the Associate Administrator for Operations and Management.

All previous redelegations of these authorities to other HRSA officials and to PHS Regional Office officials continue in effect in them or their successors provided they are consistent with these delegations.

These delegations became effective on October 1, 1987.

Date: September 21, 1987.

David N. Sundwall,
Administrator, Health Resources and
Services Administration.

[FR Doc. 87-22349 Filed 9-28-87; 8:45 am]

BILLING CODE 4160-15-M

Health Resources and Services Administration; Health Care for the Homeless, Section 340 of the Public Health Service Act; Delegation of Authority

Notice is hereby given that the following delegations have been made regarding Health Care for the Homeless under section 340 of the Public Health Service Act (42 U.S.C. 256), as amended.

1. Delegation from the Administrator, Health Resources and Services Administration, to the PHS Regional Health Administration, Regions I-X, with authority to redelegate, of the following authorities under section 340 of the Public Health Service Act (42 U.S.C. 256) for exercise within their respective regions for projects that are not multi-regional or national in scope:

(a) To award grants to public and nonprofit private entities to meet the initial costs of establishing and operating health care programs for the homeless;

(b) To enter into grants and contracts with public and private entities for the provision of technical assistance related to providing health care for the homeless.

2. Delegation from the Administrator, Health Resources and Services Administration, to the Director, Bureau of Health Care Delivery and Assistance, with authority to redelegate, of all the authorities under section 340 of the Public Health Service Act except those authorities specifically delegated to the Regional Health Administrator, excluding the authorities to issue regulations and submit reports to Congress.

Previous delegations and redelegations made to officials within the Public Health Service of authorities under section 340 of the Public Health Service Act may continue in effect provided they are consistent with this delegation.

The above delegation was effective on September 2, 1987.

Date: September 2, 1987.

David N. Sundwall,
Administrator, Health Resources and
Services Administration.

[FR Doc. 87-22350 Filed 9-28-87; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-87-1740]

Submission of Proposed Information Collecting to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Officer of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as

required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission; (8) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Monthly Report of Excess Income.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: Section 236 insured and uninsured project owners are required by the Housing and Urban Development Act of 1968 to pay HUD the total rental charges collected in excess of the basic rents for all approved occupied units. Project owners and management agents use the form to compute any required payment due HUD.

Form Number: HUD-93104 and 93104A.

Respondents: Businesses or Other For-Profit, Federal Agencies or Employers, and Non-Profit Institutions.

Frequency of Response: Monthly.

Estimated Burden Hours: 27,138.

Status: Extension.

Contact: James J. Tahash, HUD, (202) 426-9344, or John Allison, OMB, (202) 395-6880.

Proposal: Collection of Multifamily Assisted Housing Addresses and Site Identification Codes.

Office: Policy Development and Research.

Description of the Need for the Information and Its Proposed Use:

Under Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Executive Order 11063, the Department is responsible for determining that HUD-assisted and public housing programs are operated in a nondiscriminatory manner. After a one-time collection effort, these data will be used to generate information descriptive of HUD's multifamily housing programs, and to more effectively monitor HUD's program and target compliance reviews.

Form Number: HUD-951.

Respondents: Businesses or Other For-Profit and Non-Profit Institutions.

Frequency of Response: Single-Time.

Estimated Burden Hours: 20,790.

Status: New.

Contact: John B. Carson, Jr., HUD, (202) 755-5574, or John Allison, OMB, (202) 395-6880.

Proposal: Certificate of Family Participation—Existing Housing.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: Under the Section 8 Existing Housing Program, HUD enters into an Annual Contributions Contract with Public Housing Agencies to assist very low-income families who enter into leases directly with private owners of existing rental housing. The form authorizes the family to look for an eligible rental unit and specifies the appropriate unit size necessary to meet the family's needs.

Form Number: HUD-52578 and 52578S.

Respondents: State or Local Governments.

Frequency of Response: On Occasion.

Estimated Burden Hours: 20,000.

Status: Reinstatement.

Contact: Myra E. Newbill, HUD, (202) 755-6887, or John Allison, OMB, (202) 395-6880.

Proposal: Procurement Policies and Procedures Handbook (2210.3, REV 3).

Office: Administration.

Description of the Need for the Information and Its Proposed Use: The Federal Acquisition Regulation (FAR), Title 48 of the Code of Federal Regulations, sets forth the uniform policies and procedures applicable to Federal agencies in the procurement of personal property and non-personal services. This handbook implements the policies established and provides guidance and procedures to be used in the procurement process by HUD.

Form Number: HUD-441, 441.1, 442, 443, 661, 661.1, 662, 663, and 770.

Respondents: Individuals or Households, State or Local Governments, Businesses or Other For-

Profit, Non-Profit Institutions, and Small Businesses or Organizations.

Frequency of Respondents: On Occasion, Monthly, and Quarterly.

Estimated Burden Hours: 148,302.

Status: Extension.

Contact: Gladys G. Gines, HUD, (202) 755-5294, or John Allison, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 22, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

[FR Doc. 87-22424 Filed 9-28-87; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-87-1741; FR 2412]

Mortgage and Insurance Programs; Debenture Recall

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

ACTION: Notice.

SUMMARY: This notice announces a debenture recall of certain General Insurance fund debentures, in accordance with authority provided in the National Housing Act.

FOR FURTHER INFORMATION CONTACT: Richard Keyser, Chief, Financial Procedures and Review Branch, Office of Financial Management, Room 9138, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-1591. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 207(j) of the National Housing Act, 12 U.S.C. 1713(j), and in accordance with HUD regulations at 24 CFR 207.259(e)(3), the Federal Housing Commissioner, with approval of the Secretary of the Treasury, announces the call of all General Insurance Fund debentures (MM series) with coupon rates of 8¼ percent of higher, outstanding as of September 30, 1987. The date of the call is January 1, 1988. To insure timely payment, debentures should be presented to the Federal Reserve Bank of Kansas City by December 1, 1987.

The debentures will be redeemed at par plus accrued interest. Interest will cease to accrue on the debentures as of

the call date. Final interest on any called debenture will be paid with the principal at redemption. During the period from the date of this notice to the call date, debentures that are subject to the call may not be used by a mortgagee for a special redemption purchase in payment of a mortgage insurance premium.

No transfer or denominational exchanges of debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after October 1, 1987. This does not affect the right of the holder of a debenture to sell or assign the debenture on or after October 1, 1987, and provision will be made for the payment of final interest due on January 1, 1988, with the principal thereof, to the actual owner, as shown by the assignments thereon.

Instructions for the presentation and surrender of debentures for redemption will be provided by the Department of the Treasury.

Date: September 24, 1987.

Thomas T. Demery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 87-22426 Filed 9-28-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-040-07-4341-15]

Closure of Public Lands; Salmon District, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of vehicle closure for Henry's Creek located on public lands in Lemhi County, Idaho. (1) The area is located 10 miles south of Salmon and encompasses 4500 acres. Henry's Creek will be closed to vehicles from September 20 to April 10 each year. (2) The road will be open to motorized vehicles from April 11 to September 19. This action will take place in accordance with the final approved Lemhi Resource Management Plan for protection of watershed values, and human safety.

FOR FURTHER INFORMATION CONTACT:

Lyle Lewis, Bureau of Land Management, P.O. Box 430, Salmon, ID 83467; telephone (208) 756-5400.

Dated: September 17, 1987.

Robert W. Heidemann,

Associate District Manager.

[FR Doc. 87-22430 Filed 9-28-87; 8:45 am]

BILLING CODE 4310-GG-M

[M-63929 (ND); MT-030-06-4212-14]

Realty Action; Competitive Sale of Public Land in Morton County, ND; Amendment

AGENCY: Bureau of Land Management, Dickinson District, Interior.

ACTION: Competitive sale of public land in Morton County, North Dakota amended.

SUMMARY: This notice amends a previous Notice of Realty Action to change the sale time and date of the proposed Competitive Sale of Public Lands, Case M-63929 (ND), published in the Federal Register, Vol. 52, No. 152, Pages 29447, 29448, issue of August 7, 1987 (FR Doc. 87-17942).

The sale will be held at 10:00 a.m. MST on December 17, 1987. Bids will be accepted until 10:00 a.m. on December 17, 1987. The sealed bid envelopes must be marked with the December 17, 1987 date.

William F. Krech,

District Manager.

Date: September 23, 1987.

[FR Doc. 87-22429 Filed 9-28-87; 8:45 am]

BILLING CODE 4310-DN-M

Bureau of Reclamation

Public Hearings on the Planning Report Draft Environmental Statement; San Jacinto Project, TX

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Public Hearings on the Planning Report/Draft Environmental Statement, San Jacinto Project, Texas.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior, Bureau of Reclamation, has prepared a Planning Report/Draft Environmental Statement for the San Jacinto Project, Texas. This document (DES 87-25, dated September 1, 1987) was made available to the public on September 8, 1987.

The purpose of these hearings is (1) to receive views and comments from interested organizations and individuals relating to the environmental impacts of the project and (2) to provide the public with information on the effect this project will have on wetlands (Executive Order 11990) and on floodplains (Executive Order 11988). The hearings will give the public an opportunity to participate in the decisionmaking process.

DATES: Public Hearings will be held at 7 p.m. on October 29, 1987, and at 3 p.m.

on October 31, 1987, at the Conroe High School cafeteria, 320 West Davis (Highway 105 West), Conroe, Texas.

FOR FURTHER INFORMATION CONTACT:

Nicolas Palacios, Planning Study Manager, Bureau of Reclamation, 714 South Tyler, Suite 201, Amarillo, Texas 79101, Telephone (806) 378-5474.

Dated: September 24, 1987.

C. Dale Duvall,

Commissioner.

[FR Doc. 87-22368 Filed 9-28-87; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Martin Luther King, Jr., National Historic Site and Preservation District Advisory Commission; Meeting

AGENCY: National Park Service, Martin Luther King, Jr., National Historic Site.

ACTION: Notice of advisory commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. at the following location and date.

DATE: October 14, 1987.

ADDRESS: The Martin Luther King, Jr., Center for Non-Violent Social Change, Inc., Freedom Hall, Room 261, 449 Auburn Avenue, NE., Atlanta, Georgia 30312.

FOR FURTHER INFORMATION CONTACT:

Mr. Randolph Scott, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue, NE., Atlanta, Georgia 30312, Telephone (404) 331-4979.

SUPPLEMENTARY INFORMATION: The purpose of the Martin Luther King, Jr., National Historic Site Advisory Commission is to consult and advise with the Secretary of the Interior or his designee on matters of planning and administration of the Martin Luther King, Jr., National Historic Site.

The matters to be discussed at this meeting will include the status of park development and interpretive activities.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection.

approximately 4 weeks after the meeting.

Date: September 18, 1987.

Robert L. Deskins,

Regional Director, Southeast Region.

[FR Doc. 87-22338 Filed 9-28-87; 8:45 am]

BILLING CODE 4310-70-M

National Park System Advisory Board; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247), that a meeting of the National Park System Advisory Board will be held in Death Valley National Monument, California, November 9-13, 1987.

The general business session will start at 8:00 am, Wednesday morning, November 11; and conclude during the late afternoon on Thursday, November 12. It will be held in the Oasis Room of the Furnace Creek Inn, P.O. Box 1, Death Valley, California 92328 (telephone 619-786-2345). The Advisory Board will consider potential National Historic Landmark nominations plus a variety of matters relating to the National Park System. The meeting will follow an orientation tour and briefings on issues at Death Valley National Monument.

The business meetings will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on first-come, first-served basis. Anyone may file with the Advisory Board a written statement concerning this meeting. Persons wishing further information concerning this meeting may contact Mr. David L. Jervis, National Park Service, Department of the Interior, P.O. Box 37127, Washington, DC 20013-7127 (telephone 202-343-7456).

Draft summary minutes of the meeting will be available for public inspection about 8 weeks after the meeting in Room 1218 Interior Building, 18th and C Streets, NW., Washington, DC.

Denis P. Galvin,

Acting Director, National Park Service.

[FR Doc. 87-22339 Filed 9-28-87; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 19, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments

concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by October 14, 1987.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Chilton County

Maplesville vicinity, *Walker-Klinner Farm*, 3.5 miles E of Maplesville on AL 22

DISTRICT OF COLUMBIA

Washington

Langston Terrace Dwellings, N from Benning Rd. to H St., NE

KENTUCKY

Bullitt County

Clermont, *Beam, T. Jeremiah, House*, Big Level Rd.

MAINE

Washington County

Calais, *Holmes Cottage*, 241 Main St.

York County

Buxton, *Salmon Falls (East) Historic District*, Portions of ME 117 and Simpson Rd.
Hollis vicinity, *Salmon Falls (West) Historic District*, Salmon Falls Rd. and portion of US 202

NEW YORK

Erie County

Buffalo, *Berkeley Apartments*, 24 Johnson Park

Madison County

Cazenovia, *Abell Farmhouse and Barn (Cazenovia Town MRA)*, Ballina Rd.
Cazenovia, *Annas Farmhouse (Cazenovia Town MRA)*, 4812 Ridge Rd.
Cazenovia, *Beckwith Farmhouse (Cazenovia Town MRA)*, 4652 Syracuse Rd.
Cazenovia, *Brick House (Cazenovia Town MRA)*, 3318 Rippleton Rd.
Cazenovia, *Chappell Farmhouse (Cazenovia Town MRA)*, Ridge Rd.
Cazenovia, *Cobblestone House (Cazenovia Town MRA)*, Syracuse Rd.
Cazenovia, *Comstock, Zephnia, Farmhouse (Cazenovia Town MRA)*, 2363 Nelson St.
Cazenovia, *Crandall Farm Complex (Cazenovia Town MRA)*, 2430 Ballina Rd.
Cazenovia, *Evergreen Acres (Cazenovia Town MRA)*, Syracuse Rd.
Cazenovia, *Meadows Farm Complex (Cazenovia Town MRA)*, Rippleton Rd.
Cazenovia, *Middle Farmhouse (Cazenovia Town MRA)*, 4875 W. Lake Rd.
Cazenovia, *Niles Farmhouse (Cazenovia Town MRA)*, Rippleton Rd.
Cazenovia, *Parker Farmhouse (Cazenovia Town MRA)*, 3981 East Rd.
Cazenovia, *Rolling Ridge Farm (Cazenovia Town MRA)*, 3937 Number Nine Rd.
Cazenovia, *Sweetland Farmhouse (Cazenovia Town MRA)*, Number Nine Rd.

Cazenovia, *Tall Pines (Cazenovia Town MRA)*, Ridge Rd.
Cazenovia, *Maples, The, (Cazenovia Town MRA)*, 2420 Nelson Rd.

NORTH CAROLINA

Alamance County

Haw River vicinity, *Scott, Kerr, Farm*, N and S sides of SR 2123

TENNESSEE

Montgomery County

Clarksville, *Minglewood Farm*, 1650 Hopkinsville Hwy.

VIRGINIA

Norfolk (Independent City)

First Calvary Baptist Church, 1036-1040 Wide St.

Richmond (Independent City)

Chesterman Place, 100 W. Franklin St.

[FR Doc. 87-22340 Filed 9-28-87; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 51¹ (Amdt. No. 2)]

Agreement; Indiana Motor Rate and Tariff Bureau, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and request for comment.

SUMMARY: Indiana Motor Rate and Tariff Bureau, Inc. (Indiana) has filed, pursuant to section 14(e) of the Motor Carrier Act of 1980 (MCA), an application for approval of its ratemaking agreement under 49 U.S.C. 10706(b). Since some modifications are required before the agreement receives final approval, and because new and complex questions are involved in determining whether the agreement is consistent with the MCA, the Commission solicits public comment on its interpretation and application of specific rate bureau provisions. Copies of Indiana's proposed amended agreement are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, and from Indian's representatives: Louis I. Webster, Indiana Motor Rate and Tariff Bureau, Inc., 2165 South High School Road, Indianapolis, IN 46241.

Additional information is in the Commission's decision. Copies may be obtained from Office of the Secretary,

¹ Section 5 was recodified as section 10706.

Room 2215, Interstate Commerce Commission, Washington, DC 20423, or call (202) 275-7428 (assistance for the hearing impaired is available through TDD services (202) 275-1721) or by pickup from TSI in Room 2229 at Commission headquarters.

DATES: Comments from interested persons are due October 29, 1987. Replies are due 15 days thereafter.

ADDRESS: An original and 10 copies, if possible, of comments referring to Section 5a Application No. 51 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Richard Hartley, (202) 275-7786

or

Andrew L. Lyon, (202) 275-7691, (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: We have provisionally approved Indiana's agreement as consistent with 49 U.S.C. 10706(b) and *Motor Carrier Rate Bureau—Implementation of Pub. L. 96-296*, 364 I.C.C. 464 (1980) and 364 I.C.C. 921 (1981) (*Rate Bureau*), subject to certain conditions and modifications in the following subject areas: Identification and description of member carriers; right of independent action; rate bureau protests; open meetings; proxy voting; quorum standard; final disposition of cases; and single-line rates. We have also offered comments and imposed requirements concerning the agreement generally. Indiana has been directed to file a revised agreement conforming to the imposed conditions within 120 days of service of the decision.

In light of the complexity of interpretation involved in determining whether the agreement is consistent with the MCA and the *Rate Bureau* case, *supra*, we request applicant and other interested parties to comment on our interpretation of the controlling authority and administrative criteria, and their application to Indiana's agreement.

A copy of any comments filed with the Commission must also be served on Indiana, which will have 15 days from the expiration of the comment period to reply. These comments will be considered in conjunction with our review of the modification that Indiana must submit to the Commission as a condition to final approval of its agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: September 22, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Andre concurred with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87-22391 Filed 9-28-87; 8:45 am]

BILLING CODE 7035-01-M

Change of Public Decision Distribution Contractor; Dynamic Concepts, Inc.

Effective October 1, 1987, Dynamic Concepts, Inc. will become the Interstate Commerce Commission's public decision distribution contractor. The company will be located in Room 2229 of the Interstate Commerce Commission Building at 12th Street and Constitution Avenue, NW. Its phone number will be (202) 289-4357 or 289-4359. Dynamic Concepts, Inc. will continue to provide the box service and all other services provided by the current contractor.

To facilitate the changeover, there will be no service of decisions or the *ICC Register* on September 30 or October 1, 1987.

Noreta R. McGee,

Secretary.

[FR Doc. 87-22501 Filed 9-28-87; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 290 (Sub-No. 5) (87-4)]

Quarterly Rail Cost Adjustment Factor; Approval and Decision

AGENCY: Interstate Commerce Commission.

ACTION: Notice of approval of rail cost adjustment factor and decision.

SUMMARY: The Commission has decided to approve the fourth quarter 1987 cost index filed by the Association of American Railroads (AAR) under the procedures of Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*. We have modified the fourth quarter 1987 RCAF filed by AAR to adjust for a .001 downward change in its adjustment for forecast error. Application of the index, as adjusted for second quarter 1987 forecast error, provides for a fourth quarter 1987 RCAF of 1.093. Since there is a bank of credits sufficient to offset any increase in maximum RCAF rate levels, maximum adjusted base rates may not exceed the current ceiling of 1.057. No rate actions are ordered.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT:

William T. Bono, (202) 275-7354
or

Robert C. Hasek, (202) 275-0938
(TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: By decision served January 2, 1985 (50 FR 87, January 2, 1985) we outlined the procedures for the calculation of the all inclusive index of railroad input prices and the methodology for the computation of the RCAF. These procedures replaced an interim methodology which was formerly used. AAR is required to calculate the forecasted index on a quarterly basis and submit it on the fifth day of the last month of each calendar quarter.

We have reviewed AAR's calculations of the index for the fourth quarter of 1987 and find that these calculations comply with the rules. We have recalculated the linked index for the second quarter 1987 actual from 130.1, as submitted by AAR, to 130.0. This reduces the forecast error adjustment to .006 resulting in an RCAF of 1.093.

In our decision served December 27, 1985, we restated a lump sum payment to certain members of the United Transportation Union by amortizing it over the life of the present union contract with interest calculated using the three-month Treasury Bill rate. We instructed AAR to continue this calculation by amortizing the principal balance over the remaining quarters using a three-month Treasury Bill interest rate available seven days prior to the submission date of the quarterly index. The weights in the fourth quarter submission have been updated to the 1986 level. We have verified AAR's lump sum calculations and find that they comply with our instructions.

The index weights are updated annually to reflect the changing mix of the various index components. AAR has recalculated the index weight to 1986 levels and has used them for the first time in its calculation of the fourth quarter 1987 RCAF. We have reviewed AAR's calculations and find that they have been made in accordance with our rules. We do note an increase in the depreciation component from 8.7 percent using 1985 weights to 12.3 percent using 1986 weights. Much of this increase was caused by an extraordinarily high amount of asset writedowns taken during 1986.

We find the RCAF for the fourth quarter of 1987 to be 1.093. This figure was calculated by adjusting the preliminary fourth quarter 1987 RCAF for the fourth quarter 1987 forecast error. Since there is a bank of credits sufficient to offset any increase in maximum

RCAF rate levels, adjusted base rates may not exceed the current ceiling of 1.057. No rate actions are ordered.

The indices and RCAF derived from AAR's fourth quarter 1987 calculations are shown in Table A of the appendix to this decision. The adjustment for second quarter 1987 forecast error is also shown in Table A. Table B shows the second quarter 1987 index and RCAF calculated on both an actual basis and a forecasted basis for comparative purposes. Table C shows our calculation of the bank of credits (including the application of an opportunity cost adjustment) used to offset increases in the RCAF.

Since the published fourth quarter 1987 RCAF of 1.093 is higher than the current maximum RCAF rate level of 1.057, the bank of credits will again be reduced. We expect further reductions in the bank to occur. We will continue to

calculate the size of the bank of credits and include that information in each quarterly decision as long as there are any remaining credits.

In a decision served August 27, 1987, we established a new proceeding for the handling of quarterly RCAF matters only. This is the first RCAF decision to be served under Ex Parte No. 290 (Sub-No. 5), *Quarterly Rail Cost Adjustment Factor* which continues the quarterly RCAF portion of Ex Parte No. 290 (Sub-No. 2), *Rail Cost Recovery Procedures*.

Finally, we note that certain shipper parties have filed petitions for release of data which underlies the RCAF and AAR has replied to those petitions.

Comments on release of index data were requested in a decision served August 13, 1987. Those comments are due September 30 and replies on October 15. We expect to issue a

decision on release of index data after our analysis of comments and replies.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources. This proceeding will not have a significant adverse impact on a substantial number of small entities because these procedures simplify a formerly complex and burdensome rate increase procedure.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Decided: September 23, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Vice Chairman Lamboley concurred with the result.

Noreta R. McGee,
Secretary.

TABLE A.—EX PARTE NO. 290 (SUB-NO. 5) (87-4)

[All Inclusive Index of Railroad Input Costs]

Line No.	Index component	1985 weights ¹ (percent)	1986 weights ² (percent)	Third quarter 1987 forecast	Fourth quarter 1987 forecast
1.	Labor.....	48.6	46.7	164.2	164.9
2.	Fuel.....	9.7	5.9	60.2	67.6
3.	Materials and Supplies.....	7.6	6.9	98.6	99.7
4.	Equipment Rents.....	9.0	9.2	140.2	141.4
5.	Depreciation.....	8.7	12.3	115.4	115.5
6.	Other Items ³	16.4	19.0	123.4	124.5
7.	Weighted Average.....	100.0	100.0	136.0	138.7
8.	Linked Index ⁴			130.4	131.4
9.	Preliminary Rail Cost Adjustment Factor ⁵ (10/1/82=100) 120.9.....			1.079	1.087
10.	Adjustment for Forecast Error ⁶008	.006
11.	RCAF (Line 9 plus Line 10).....			1.087	1.093

¹ Weights for 1985 were used to calculate the third quarter 1987 RCAF.

² Weights for 1986 were used to calculate the fourth quarter 1987 RCAF.

³ Other items are a combination of Purchased Services, Casualties and Insurance, General and Administrative, Other Taxes and Loss and Industrial Commodities Less Fuel and Related Products and Power.

⁴ Linking is necessitated by a change to 1986 weights beginning with the fourth quarter 1987. The following formula was used for the fourth quarter 1987 index:

$$\frac{\text{4th Quarter 1987 Index (1986 Weights)}}{\text{3rd Quarter 1987 Index (1986 Weights)}} \times \text{3rd Quarter 1987 Index (Linked Index)} = \text{Linked Index (1986 Weights to 1986 Weights)}$$

$$\text{or: } \frac{138.7}{137.6} \times 130.4 = 131.4$$

⁵ The denominator was rebased to an October 1, 1982 level in accordance with the requirements of the Staggers Rail Act of 1980.

⁶ Second quarter 1987 forecast error adjustment is calculated as follows:

1. Second quarter 1987 RCAF calculated using forecasted data.....	1.069
2. Second quarter 1987 RCAF calculated using actual data.....	1.075

3. Difference (Line 2 minus Line 1). Since the actual second quarter 1987 RCAF was higher than the forecast the difference will be added to the fourth quarter 1987 preliminary RCAF. .006

TABLE B.—EX PARTE NO. 290 (SUB-NO. 5) (87-4)
[Comparison of Second Quarter 1987 Index Calculated on Both a Forecasted and an Actual Basis]

Line No.	Index component	1985 weights (per-cent)	Second quarter 1987 forecast	Second quarter 1987 actual
1	Labor	48.6	163.7	163.7
2	Fuel.....	9.7	51.6	59.6
3	Materials and Supplies.....	7.6	98.2	98.2
4	Equipment Rents	9.0	139.6	140.2
5	Depreciation	8.7	116.5	115.7
6	Other Items.....	16.4	122.3	123.2
7	Weighted Average.....	100.0	134.8	135.7
8	Linked Index.....		129.2	130.0
9	Rail Cost Adjustment Factor		1.069	1.075

¹ For comparative purposes only, an RCAF for the second quarter 1987 has been calculated using actual data. The published RCAF for the second quarter 1987 was computed using forecasted data.

TABLE C.—EX PARTE NO. 290 (SUB-NO. 5) (87-4)

[Calculation of RCAF Credits and Application of Opportunity Cost Adjustment]

1. Bank of RCAF credits 6-30-87...	.086
2. Maximum RCAF rate level, third quarter 1987.....	1.057
3. Published RCAF third quarter 1987	1.087
4. Reduction () or addition to bank of credits for second quarter 1987 (Line 2 minus Line 3)	(.030)
5. Bank of RCAF credits 9-30-87 (Line 1 plus Line 4)056
6. Third quarter allowance for opportunity cost (Three-month Treasury Bill rate for sale of 8-24-87 (6.12 percent) divided by 4)	1.53%
7. Bank of RCAF credits 9-30-87 adjusted for opportunity cost (Line 5 x (1.0 + Line 6)).....	.057

[FR Doc. 87-22392 Filed 9-28-87; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 31114]

Trackage Rights; CSX Transportation, Inc.; Grand Trunk Western Railroad Co.; Exemption

Grand Trunk Western Railroad Company (GTW) has agreed to grant overhead trackage rights to CSX Transportation, Inc. (CSXT), beginning at point of switch of Track No. 93-1 at milepost 40.60 and ending at point of switch of Track No. 4 at milepost 40.96, and including the first 440 feet of Track

No. 4, a total distance of approximately 0.44 miles, in Mershon, Saginaw, MI. The trackage rights became effective on September 16, 1987.

This Notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: September 18, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.
Noreta R. McGee,
Secretary.
[FR Doc. 87-22387 Filed 9-28-87; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-106X)]

Abandonment Exemption; CSX Transportation, Inc.; Tuscarawas County, OH

CSX Transportation, Inc.,¹ has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*, to abandon its 1.57-mile line of railroad between mileposts 29.45 and 31.02 at Dover in Tuscarawas County, OH.

¹ The Chesapeake and Ohio Railway Company was merged into CSX Transportation, Inc., on September 1, 1987.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years and that the line does not handle overhead traffic; and (2) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

Applicant has filed an environmental report which shows that no significant environmental or energy impacts are likely to result from this abandonment.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective October 29, 1987 (unless stayed pending reconsideration). Petitions to stay must be filed by October 9, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by October 19, 1987 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: September 15, 1987.

By the Commission, Jane F. Mackall,
Director, Office of Proceedings.

Noreta R. McGee,
Secretary.

[FR Doc. 87-22051 Filed 9-28-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-39 (Sub-No. 9X)]

Abandonment Exemption; St. Louis Southwestern Railway Co. in Wyandotte County, KS, and Jackson County, MO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by St. Louis Southwestern Railway Company of 1.017 miles of track in Wyandotte County, KS, and Jackson County, MO, subject to conditions for labor protection and historic preservation.

DATES: This exemption is effective on October 2, 1987. Petitions for reconsideration must be filed by October 19, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-39 (Sub-No. 9X) to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) Petitioner's representative: Gary A. Laakso, Southern Pacific Bldg., One Market Plaza, San Francisco, CA 94105

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 T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357 (assistance for the hearing impaired is available through TDD services (202) 275-1721) or by pickup in Room 2229 at Commission headquarters.

Decided: September 22, 1987.

By the Commission, Chairman Gradison,
Vice Chairman Lamboley, Commissioners
Sterrett, Andre, and Simmons.

Noreta R. McGee,
Secretary.

[FR Doc. 87-22388 Filed 9-28-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 86-25]

Revocation of Registration; Robert Vidor, M.D.

On March 24, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert Vidor, M.D. (Respondent) of 659 Kearny Avenue, Kearny, New Jersey 07032 and 15 W. 12th Street, New York, New York 10011 proposing to revoke his DEA Certificates of Registration AV4675003 and AV2808422 and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that the continued registration of Respondent is inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

On May 9, 1986, Respondent requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Francis L. Young. Following prehearing proceedings, a hearing was held in Newark, New Jersey, on October 7, 8 and 9, 1986. On May 11, 1987, Judge Young issued his Opinion and Recommended Ruling, Findings of Facts, Conclusions of Law and Decision. Pursuant to 21 CFR 1316.66, Respondent filed exceptions to the Administrative Law Judge's Recommended Ruling and the Government filed a response to such exceptions. On July 24, 1987, Judge Young transmitted the record in these proceedings, including Respondent's exceptions and the Government's response thereto, to the Administrator. The Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that Respondent has been a practicing psychiatrist in the Kearny, New Jersey, area for the past twenty-three years. Beginning in 1981, the Kearny Police Department received an ongoing series of complaints from confidential informants, concerned citizens, family members of Respondent's patients and anonymous callers regarding Respondent's controlled substance prescribing practices. These complaints were to the effect that Respondent was prescribing controlled substances for individuals without any examination or consultation and that these individuals

were then either abusing drugs themselves or selling them on the street.

As a result of the complaints, the Kearny Police Department requested that the Hudson County Prosecutor's Office initiate an undercover investigation into Respondent's controlled substance prescribing practices. In response to this request, on three separate occasions in 1983, an investigator with the Hudson County Prosecutor's Office, went to Respondent's office, in an undercover capacity, to attempt to purchase prescriptions for controlled substances from Respondent without a showing of legitimate medical need for the drugs.

During each of the three visits, Respondent wrote the investigator a prescription for 100 Xanax tablets, a Schedule IV controlled substance. Respondent never took a complete medical history from the investigator on any occasion before prescribing controlled substances for him. The investigator clearly indicated to Respondent that his "wife" was both using and selling some of the drugs Respondent was prescribing for him, not for his wife. The Administrative Law Judge concluded, however, that in light of all that transpired between the investigator and Respondent, these circumstances do not in themselves establish that the prescriptions written for the investigator could not have been intended by Respondent for a legitimate medical purpose.

On three separate occasions in 1983, another investigator with the Hudson County Prosecutor's Office, went to Respondent's office, in an undercover capacity, to attempt to purchase prescriptions for controlled substances from Respondent without a showing of legitimate medical need for the drugs. During his first visit on June 8, 1983, the investigator told Respondent that he was currently going to a methadone clinic, that he was buying drugs on the street and that he used cocaine. Respondent proceeded to write the investigator two prescriptions, one for 15 dosage units of Dalmane, a Schedule IV controlled substance, and one for 60 dosage units of Valium 10 mg., also a Schedule IV controlled substance. Before prescribing these drugs, Respondent did not take a complete medical history from the investigator; he did not perform any psychiatric counseling; and he did not ask the investigator to sign a release of records form so he could obtain information regarding the investigator's supposed treatment at the methadone clinic.

During this visit, Respondent cautioned the investigator not to sell

anything that he prescribed for him. The investigator had not said anything about selling the drugs prior to Respondent's making this statement. The investigator then stated that he could sell the drugs in Newark, to which Respondent replied: "Newark is another thing * * *. I don't know about that, okay?" Before the investigator left Respondent's office, Respondent stated that he had to write something on the investigator's medical chart to justify the issuance of the prescriptions. Specifically, Respondent stated: "I have to write that you're quite nervous, okay * * *. You have anxiety, tense, nervous, okay? * * *. Sometimes you can't sleep." The investigator responded: "you can write down anything you want." Respondent replied: "No, you mustn't disagree."

The investigator returned to Respondent's office on June 27, 1983. Respondent wrote the investigator one prescription for 100 dosage units of Valium 10 mg. and 20 dosage units of Dalmane. Respondent did not offer the investigator any sort of psychiatric counseling.

On September 12, 1983, the investigator returned to Respondent's office. During this visit, the investigator told Respondent that he was taking some of the drugs that Respondent prescribed for him and selling some. Respondent warned the investigator to be careful because the "Feds are everywhere." Respondent proceeded to write the investigator a prescription for 60 dosage units of Valium 10 mg. and 24 dosage units of Elavil, a non-controlled substance. Once again, Respondent stated that he had to write something on the investigator's medical chart to justify the issuance of the prescription. He suggested that: "[Y]ou sometimes feel like down, like depressed * * * [L]ike you broke up with your girlfriend." Respondent did not provide the investigator with any psychiatric counseling before prescribing the drugs for him. The Administrative Law Judge concluded that the controlled substances prescribed for the investigator on this occasion, and on June 8 and 27, 1983, were not prescribed for a legitimate medical purpose.

The Administrative Law Judge found that some of Respondent's patients were clients at area methadone treatment clinics. The exchange of information between a treating doctor and the methadone clinic regarding an individual is necessary to ensure that medications are not improperly combined.

The director of a local methadone treatment facility attempted to contact Respondent on several occasions to

attempt to implement certain procedures for the coordination of treatment when a client of the clinic is also Respondent's patient. Respondent showed no interest in effecting such medically necessary coordination. In one instance in 1980, Respondent became aware that a patient of his was also a client at the methadone clinic, yet Respondent failed to contact the clinic regarding the patient's treatment and he did not ask the patient to sign a release of records form until April 1986, after the initiation of proceedings to revoke his DEA Certificate of Registration. Generally, Respondent did not begin to contact local methadone clinics to attempt to obtain information regarding his patients who were also clients at the clinics until the spring of 1986, after the initiation of these proceedings.

The Administrative Law Judge further found that as of early 1986, Respondent had been writing prescriptions for controlled substances, on a regular basis for four years for a patient who is a drug addict. The individual was then reselling the drugs or trading them on the street for other drugs. The individual's sister contacted Respondent on several occasions to attempt to discuss his prescribing of controlled substances for her sister. The sister specifically told Respondent that her sister was selling the drugs Respondent prescribed for her. Respondent threatened the sister by telling her to "butt out" or she'd be in trouble. Respondent further stated, "[i]f I didn't give her drugs, she'd buy more dangerous ones on the street."

The Administrative Law Judge recommended that Respondent's DEA Certificates of Registration be revoked. Although he concluded that not all of the Government's allegations of wrongdoing by Respondent were supported by the evidence in the record, he found that a number of them were, and that those were sufficient to persuade him that Respondent ought not to be permitted to handle controlled substances.

The Administrator adopts the findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. The Administrator also considered Respondent's exceptions to Judge Young's opinion and recommended ruling. However, nothing in Respondent's exceptions persuades the Administrator to conclude that the continued registration of Respondent is consistent with the public interest. Respondent prescribed controlled substances for an individual even after being told that the individual was a drug addict and was selling some of the drugs Respondent prescribed for him. In addition, Respondent freely prescribed

controlled substances to methadone clinic clients without coordinating treatment with the clinic. The Administrator concludes that the evidence clearly establishes that the continued registration of Respondent is inconsistent with the public interest pursuant to 21 U.S.C. 823(f) and 824(a)(4).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificates of Registration AV4675003 and AV2808422, previously issued to Robert Vidor, M.D., be, and they hereby are, revoked. The Administrator further orders that any pending applications for the renewal of such registrations be, and they hereby are, denied. This order is effective October 29, 1987.

John C. Lawn,
Administrator.

Date: September 23, 1987.

[FR Doc. 87-22348 Filed 9-28-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Wyoming State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the *Federal Register* (39 FR 15394) of the approval of the Wyoming Plan and adoption of Subpart BB to Part 1952 containing the decision.

The Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee coordination.
2. Publication in newspapers of general/major circulation with a 45-day waiting period for public comment and hearings.
3. Adoption by the Wyoming Health and Safety Commission.

4. Review and approval by the Governor.

5. Filing with Secretary of State and designation of an effective date.

OSHA regulations (29 CFR 1953.22 and 1953.23) require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the *Federal Register*, and within 30 days for emergency temporary standards. Although adopted State standards or revisions to standards must be submitted for OSHA's review and approval under procedures set forth in Part 1953, they are enforceable by the state prior to federal review and approval. By letter dated June 10, 1987, from Donald D. Owsley, Administrator, Wyoming Occupational Health and Safety Division, to Byron R. Chadwick, OSHA Regional Administrator, the State submitted rules and regulations in response to Federal OSHA's Construction Standards (29 CFR 1926.55: Gases, Vapors, Fumes, Dusts, and Mists, 51 FR 22756, June 20, 1986; 29 CFR 1926.58: Asbestos, Tremolite, Anthophyllite, and Actinolite, 51 FR 22756, June 20, 1986; 29 CFR 1926.152: Flammable and Combustible Liquids and 29 CFR 1926.351: Arc Welding and Cutting and 29 CFR 1926.803: Compressed Air and 29 CFR 1926.400: Electrical, 51 FR 25318, July 11, 1986).

The above adoptions of Federal standards have been incorporated in the State Plan, and are contained in the Wyoming Occupational Health and Safety Rules and Regulations for General Industry, as required by Wyoming Statute 1977, Section 27-11-105(a)(viii).

State standards for 29 CFR 1926.55: Gases, Vapors, Fumes, Dusts, and Mists; 29 CFR 1926.58: Asbestos, Tremolite, Anthophyllite and Actinolite; 29 CFR 1926.152: Flammable and Combustible Liquids; 29 CFR 1926.351: Arc Welding and Cutting; 29 CFR 1926.803: Compressed Air; and 29 CFR 1926.400: Electrical were adopted by the Health and Safety Commission of Wyoming on November 14, 1986 (effective December 19, 1986, for §§ 1926.55 and 1926.58; March 10, 1987 for §§ 1926.152, 1926.351, 1926.803 and 1926.400), pursuant to Wyoming statute 1977, section 27-11-105. These State standards are substantially identical to the Federal standard actions, except for the following minor differences: (a) Paragraph numbering; and (b) minor wordage appropriate to the Wyoming statutes.

2. *Decision.* Having reviewed the State submissions in comparison with Federal standards, it has been

determined that the State standards are substantially identical to the Federal standards, and are accordingly approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1576, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, 604 East 25th Street, Cheyenne, Wyoming 82002; and the Office of State Programs, Room N-3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious. This decision is effective September 29, 1987.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colorado, this 7th Day of August, 1987.

Harry C. Borchelt,

Acting Regional Administrator.

[FR Doc. 87-22329 Filed 9-28-87; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

Docket No. 030-13435, License No. 53-17854-01, EA 87-186

Order Suspending License (Effective Immediately); Finlay Testing Laboratories, Inc.

I

Finlay Testing Laboratories, Inc., (the licensee) Testing and Inspection Services 99-940 Iwaena Street, Aiea, Hawaii 96701, is the holder of Byproduct Material License No. 53-17854-01 issued by the Nuclear Regulatory Commission (NRC/Commission) on March 1, 1978 pursuant to 10 CFR Part 34. The license is due to expire on August 31, 1988. The

license authorizes the licensee to possess and use licensed materials (cobalt-60, iridium-192, and cesium-137 sources of up to 30, 100, and 0.14 curies per source, respectively) in industrial radiography and survey instrument calibration. The license specifies that sources shall be used by, or under the supervision of, Gordon Finlay or individuals who have completed the training program described in letters dated February 28, 1983 and August 2, 1983.

II

In response to allegations received by the NRC Region V office, an investigation was initiated on August 31, 1987. The allegations included:

1. Exposure devices being placed by the licensee in luggage and loaded on commercial passenger aircraft for flights to and from the islands of Oahu and Hawaii, and on military cargo/passenger aircraft to Johnston Island.

2. Failure to use shipping papers or labels for those transfers.

During the investigation at the licensee's office in Aiea, island of Oahu, NRC personnel inquired about activities conducted under the NRC license. The licensee's Radiation Safety Officer initially denied that work had been performed on the island of Hawaii. When confronted with evidence of that work, however, he admitted that the work had been done. Radiographers employed by the licensee also stated during discussions with NRC personnel that radiographic work had been performed on the island of Hawaii during 1987 and that licensed material had been transported on passenger-carrying aircraft in violation of Federal regulations.

The licensee's representatives were unable to produce required documentation that showed that work had been performed on the island of Hawaii or that the licensed material had been transported from the island of Oahu to the island of Hawaii in accordance with Federal regulations. The investigation disclosed substantial evidence that, in fact, the material had been transported in luggage via commercial passenger aircraft in violation of Federal regulations which prohibit the transportation of radioactive material on passenger aircraft. 10 CFR 71.5 and 49 CFR 173.448(f).

The NRC investigation also confirmed that on August 18, 1987 the licensee shipped a radiographic device by military passenger/cargo plane to Johnston Island also in violation of Federal regulations. 10 CFR 71.5 and 49

CFR 173.448(f). In both instances, labeling and documentation requirements were not met.

The Federal regulations for shipping radioactive material have been established, in part, to protect the public, including passengers in aircraft, from the potentially serious dangers of radioactive material. For the safety of handlers and passengers, regulations dictate packaging, labeling, and documentation requirements for shipping radioactive material and limit the types of flights on which the material may be carried.

While the investigation is continuing, the information developed to date indicates that the violations appear to be deliberate, which raises a question whether the licensee is able or willing to comply with the Commission's requirements to protect the public health and safety. Therefore, the NRC no longer has reasonable assurance that licensed activities will be conducted without undue risk to the public health and safety. I have determined pursuant to 10 CFR 2.201(c) and 1.202(f) that the public health and safety require that the license be suspended pending the results of the investigation, that the suspension be immediately effective, and that no prior notice is required.

IV

Accordingly, in view of the foregoing and pursuant to sections 81, 161b, 161c, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 30 and 34, *It Is Hereby Ordered, Effective Immediately, That:*

A. Activities under License No. 53-17854-01 are suspended.

B. The licensee shall place all byproduct material in its possession in locked storage and notify the Region V office of compliance.

The Regional Administrator, Region V, may, in writing, relax or rescind any of the above provisions on demonstration of good cause by the licensee.

V

Pursuant to 10 CFR 2.202(b), the licensee may show cause why License No. 53-17854-01 should not be suspended by filing a written answer under oath or affirmation within 20 days of the date of issuance of this Order, setting forth the matters of fact and law on which the licensee relies. The licensee may answer this Order, as provided in 10 CFR 2.202(d), by consenting to the provisions specified in section IV above. Upon consent of the licensee to the provisions set forth in

section IV of this Order, or on failure of the licensee to file an answer within the specified time, the provisions specified in section IV above shall be final without further Order.

VI

Pursuant to 10 CFR 2.202(b), the licensee or any other person adversely affected by this Order may request a hearing within 20 days of this Order. An answer to this Order and any request for a hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement, at the same address, and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region V, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596. 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). An answer to this Order or a request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission shall issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this order should be sustained.

For The Nuclear Regulatory Commission,
James M. Taylor,
Deputy Executive Director for Regional Operations.

Dated at Bethesda, Maryland, this 21st day of September 1987.

[FR Doc. 87-22407 Filed 9-28-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 30-05900 et al., License Nos. 35-00502-02 et al., EA 87-35]

Order Modifying Licenses; Halliburton Co., (Halliburton Services Division)

I

Halliburton Company (the Licensee) Post Office Drawer 1431, Duncan, Oklahoma 73536, is the holder of several byproduct material licenses. License No. 35-00502-02 authorizes the Licensee to possess and use byproduct material for the purpose of performing tracer studies in oil and gas wells. Amendment No. 25 to the license was issued December 18, 1986. The license expires on March 31, 1991. License No. 35-00502-03 authorizes

the Licensee to possess and use byproduct material for the purposes of research and development and the manufacture of tracer materials and gauging equipment used in oil field operations. Amendment No. 55 to the license was issued July 7, 1987. The license expires on March 31, 1991. License No. 42-01068-07 authorizes the Licensee to possess and use byproduct material for the purpose of performing tracer studies and well logging in oil and gas wells. Amendment No. 42 to the license was issued August 31, 1986. The license expires on August 31, 1989.

II

On December 8-12, 1986, the NRC conducted a special inspection to review the circumstances surrounding alleged activities being performed under License Nos. 35-00502-03 and 35-00502-05. Several apparent violations were identified during the inspection. One of the violations was of particular concern because it involved activities being performed without NRC authorization. Specifically, Halliburton Industrial Services, Inc. was authorized under License No. 35-00502-05 to perform salvage and decontamination activities of spent fuel racks at its facility in Duncan, Oklahoma. On April 11, 1985, while disposal activities were taking place, Halliburton Industrial Services, Inc. was dissolved as a separate corporation. On that same day, Halliburton Company took possession of the facility. When the salvage and decontamination activities proved economically unfeasible, the spent fuel racks were cut into small pieces by Halliburton Company without NRC authorization and disposed of at an authorized disposal site. Because Halliburton Company was not an authorized recipient of the byproduct material, such possession violated NRC requirements. Further, contrary to NRC requirements, Halliburton Company continued to conduct decontamination activities at the Duncan, Oklahoma site from April 11, 1985 to December 19, 1985. At no time prior to the inspection did Halliburton Industrial Services, Inc. or Halliburton Company notify the NRC of these occurrences.

These circumstances, when viewed together with the other violations, demonstrated that Halliburton Company management failed to exercise adequate oversight and control of its radiation safety program. The NRC communicated its concerns to the Licensee during an enforcement conference held on January 26, 1987. Pursuant to NRC request, the Licensee committed, by letter dated April 16, 1987, not to conduct activities

which had been authorized under License No. 35-00502-05. Further, in a Confirmatory Action Letter dated May 1, 1987, the NRC documented the Licensee's commitment to request an amendment to License No. 35-00502-03 which would authorize the decontamination activities previously authorized under License No. 35-00502-05.

Another enforcement conference was held on May 27, 1987 to discuss with the Licensee the need to develop a comprehensive audit program. The NRC determined that an audit program was necessary because of the multiple licenses held the Licensee and because the violations identified during the inspection indicated the need for greater management involvement in the radiation safety program. Consequently, on June 9, 1987, Halliburton Company submitted a letter describing its proposed audit program. The NRC documented the Licensee's commitment in a Confirmatory Action Letter dated July 1, 1987.

III

After consideration of the facts, the NRC has concluded that there was a significant breakdown in management oversight and control of operations involving licensed material and has determined that an improved program of internal auditing and corporate management notification is needed. Further, the NRC has determined that the Licensee's completed and proposed corrective actions do not extend far enough to ensure thorough management involvement in the day-to-day operations of its licensed activities. Therefore, an Order describing in greater detail the requirements of the corporate audit program is necessary.

IV

In view of the foregoing and pursuant to sections 81, 161b, 161i, and 161o of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations 10 CFR 2.204, and Parts 30 and 39, it is hereby ordered that:

A. The Licensee shall submit within 30 days of the date of this Order a description of a corporate audit program for NRC review and approval. NRC approval will constitute incorporation of the corporate audit program into the following licenses: (1) No. 35-00502-02, (2) No. 35-00502-03, and (3) No. 42-01068-07. As a minimum, the audit program shall consist of the elements described below.

1. Comprehensive audits of the handling, use, storage and disposition of licensed materials shall be conducted at intervals not to exceed 3 months by

either the Radiation Safety Officer (RSO) or Assistant Radiation Safety Officer (ARSO) for their licenses for which they are responsible. Audits shall be conducted at each active field station or service center. (Active sites are those at which radioactive material has been possessed, used, or stored within the previous 6 months.) Any deficiencies noted by the audit shall be promptly corrected. The audits shall be documented in a report within 30 days of each audit and the report shall be submitted to the Manager of the Government Regulations Department, Halliburton Services. A determination shall be made whether the deficiency was an isolated event or one that indicates a potential systematic failure in which case all field stations and service centers shall be notified.

2. Additional unannounced audits shall be performed if prior corrective actions are not implemented or if the corrective actions were not effective.

3. As a minimum, a review of the audit findings shall be conducted for each licensed activity by the Manager of Government Regulations Department, Halliburton Services, at intervals not to exceed six months and the review shall be documented in a report. In addition, the Manager of Government Regulations Department, or an NRC-approved alternate, shall conduct periodic audits at selected active field stations or service centers.

B. Within 30 days of the audit review required by Item A.3 above, copies of the completed audit report shall be provided to the President, Halliburton Services, for his review.

C. The President, Halliburton Services, shall be the responsible Licensee representative to ensure that all corrective actions are properly implemented and incorporated into the licensee's program.

D. Records of the reviews and audits identified above shall be maintained for inspection by the Commission for a period of 3 years.

The Regional Administrator, Region IV, or his designee may relax or rescind any of the above provisions for good cause.

The Licensee or any other person adversely affected by this Order may within 30 days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the hearing request shall also be sent to the Assistant General Counsel for Enforcement, Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the

Regional Administrator, Region IV, 611 Ryan Plaza, Suite 1000, Arlington, Texas 76011. 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).

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this order shall be effective without further proceedings.

In the event the Licensee or any other person requests a hearing as provided above, the issue to be considered at such hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission,
James M. Taylor,
Deputy Executive Director for Regional Operations.

Dated at Bethesda, Maryland, this 23rd day of September, 1987.

[FR Doc. 87-22408 Filed 9-28-87; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on TVA Organizational Issues; Change in Date of Meeting

The ACRS TVA Organizational Issues Subcommittee meeting scheduled for October 2, 1987 has been postponed to Wednesday, November 4, 1987. All other items pertaining to this meeting remain the same as previously published in the **Federal Register** dated Monday, September 14, 1987 (52 FR 34728).

Date: September 24, 1987.
Morton W. Libarkin,
Assistant Executive Director for Project Review.

[FR Doc. 87-22410 Filed 9-28-87; 8:45 am]
BILLING CODE 7590-01-M

PRESIDENTIAL COMMISSION ON THE HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIC

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Presidential Commission on the Human Immunodeficiency Virus Epidemic will hold a meeting on Thursday, October 15, 1987, and on Friday, October 16, 1987.

In accordance with the provisions of the Government in the Sunshine Act, 5 U.S.C. 552(c) (2) and (6), the meeting will

be closed to the public on October 15th. This meeting will be devoted to discussing internal personnel rules and practices and information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The meeting on Friday, October 16th will be open to the public and will be held from 9:00 a.m. to 1:00 p.m. in the Loy-Henderson Conference Room, Department of State, 2201 C Street, NW., Washington, DC 20520. The purpose of the meeting on the 16th is to discuss (1) the Preliminary Report and organizational approach toward meeting the charges of the Presidential mandate; (2) future meetings and other business items submitted by the commissioners.

Records shall be kept of all commission proceedings and shall be available for public inspection at 655—15th Street NW., Suite 901, Washington, DC 20005.

William J. Walsh, III,

Executive Secretary, Presidential Commission on the Human Immunodeficiency Virus Epidemic.

[FR Doc. 87-22373 Filed 9-28-87; 8:45 am]

BILLING CODE 4160-15-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24935; File No. SR-CBOE-87-40]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b), notice is hereby given that on August 31, 1987, the Chicago Board Options Exchange, Inc. ("CBOE" 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. Text of the Proposed Rule Change

The CBOE proposes a new rule 8.14, which limits the affiliations of a designated primary market-maker (DPM).¹ The rule provides that no person or organization affiliated with a DPM may purchase or sell an option in a DPM's appointment except to reduce or liquidate positions with appropriate identification and floor official approval.

¹ The CBOE DPM program recently was approved in Securities Exchange Act Release No. 24934 (September 22, 1987).

The rule provides an exemption from this limitation in guidelines which follow the rule. These guidelines for exemption provide for what is commonly referred to as a "Chinese Wall."

The "Chinese Wall" guidelines call for (i) separate organization of the DPM and the affiliated firm, including separate books and records, separate financial compliance, no common control over the DPM's conduct, and only such general managerial oversight as not to conflict with or compromise the DPM's market maker responsibilities; and (ii) procedures to prevent the use of material non-public corporate or market information to influence the DPM's conduct and to avoid the misuse of DPM market information to influence the affiliated firm's conduct.

The firm seeking exemption is to submit to the Exchange a written statement setting forth: (i) Manner of complying with the foregoing guidelines, (ii) the firm individuals responsible for maintenance and surveillance of the procedures, (iii) that the DPM may not give special information to a broker affiliated with the firm; (iv) that the firm must disclose its affiliation with a DPM if it popularizes a security in which the DPM is registered as such; (v) that the firm will file information and reports required by the Exchange; (vi) that appropriate remedial actions will be taken for a breach of procedure; (vii) the procedures to ensure a separation of firm proprietary clearing activity to assure the "Chinese Wall" is not compromised; and (viii) that no individual associated with the firm may trade as market maker in a security on which the DPM has an appointment.

The firm compliance officer is to be notified if the DPM receives information which the guidelines prohibit, and what action should be taken, including giving up the appointment, or temporarily providing a replacement DPM. The compliance officer is to keep a written record of each such incident, and provide such records to the Exchange for review. No exemption is effective until granted by the Exchange in writing.

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 and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The proposed rule change provides for "Chinese Walls" so that member organizations with an integrated business will be able to be associated with designated primary market-makers ("DPM"), with the assurance that there are adequate controls to assure that the DPM will not have access to material non-public corporate or market information which the firm may possess, and to prevent the misuse by a firm of its DPM's non-public market information.

The guidelines provide procedures to be used in temporary DPM appointments where a DPM becomes "contaminated" following a breach of the "Chinese Walls." The guidelines also specify that a firm's procedures should insure that information regarding securities positions trading activity and margin financing arrangements between the affiliated upstairs firm and the DPM should be available solely to senior management in the firm exercising general managerial oversight of the DPM. Once in place, these procedures will substantially lessen the need for the prohibitions contained in the rules discussed above to the extent they apply to upstairs firms affiliated with DPM's. The restrictions would remain in effect as to the DPM itself.

The Exchange believes that the proposed rule change is consistent with the provisions of the Securities Exchange Act of 1934 ("Exchange Act") and, in particular, section 6(b)(5) thereof, in that the proposal will enhance enforcement of Exchange rules and the Exchange Act. The rule change will also facilitate the entry of large diversified retail broker-dealers into becoming DPM's on the Exchange floor and in so doing will enhance depth and liquidity in the options market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submission should refer to the file number in the caption above and should be submitted by October 20, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 22, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-22417 Filed 9-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24936; File No. SR-CBOE 87-19]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.

On May 7, 1987, the Chicago Board Options Exchange, Inc. ("CBOE") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the

Securities Exchange Act of 1934 ("Act")¹ and Rule 10b-b thereunder,² a proposed rule change to make permanent the Exchange's new Standard & Poor's 500 stock index option contract ("NSX"), the exercise settlement value of which is based on an index value derived from opening, rather than closing prices on the last business day prior to its expiration.

The proposed rule change was noticed in Securities Exchange Act Release No. 24751 (June 10, 1987). No comments were received on the proposed rule change. In Securities Exchange Act Release No. 24755 (July 28, 1987), the Commission granted partial approval to the proposed rule change.

The Exchange seeks permanent approval of the new NSX option contract, which is the same as the current Standard and Poor's 500 option contract ("SPX"), except that NSX's exercise settlement value would be based on opening prices of each stock comprising the index on the last business day prior to expiration Saturday. This value would be different from the current index value at any point in time, because the opening prices of the constituent stocks will be established at different times. NSX has expiration months of March, June, September and December, the same expiration months as the Standard and Poor's 500 futures contract.

The Exchange takes this action because the Chicago Mercantile Exchange ("CME") has moved the Standard and Poor's futures contract's settlement value to opening prices on the delivery date. The CBOE continues to believe that heightened volatility at expiration of index options and futures can better be addressed by improving procedures for information dissemination at the close of trading than by changing the terms of contracts to provide for exercise settlement based on opening prices. However, in light of the action of the CME, the CBOE believes it should promptly provide investors in SPX an alternative contract value on the same basis as the Standard and Poor's 500 future. Introduction of NSX will provide investors with offsetting Standard and Poor's 500 futures and SPX positions with a means of alleviating risk resulting from disparate valuation methods.

While a change to outstanding contracts would appear more straightforward than introduction of new contracts with changed terms, that alternative is not available. The Options Clearing Corporation ("OCC"), out of

justifiable concern for potential liability, had declined to alter the terms of outstanding contracts.³

The CBOE recognizes that the existence of two Standard and Poor's 500 option contracts in the same expiration month with different methods of valuation may give rise to confusion. However, the CBOE believes that the potential for confusion should not be an obstacle to introduction of NSX. SPX is used primarily by institutional investors, who have indicated a need to have the option settle as the future does.

The Commission has determined to grant continuing partial approval to the proposed rule change by approving the NSX contract through the December 18, 1987 expiration. The Commission currently is evaluating the results of the disparate expirations of June 19 and September 18, 1987, and has determined to complete its review of the June and September settlements before approving the CBOE proposal on a permanent basis. Based on the results of that review, the Commission will examine whether to continue disparate expiration settlements, or whether index settlement based on opening prices may be appropriate for all options products. Accordingly, the Commission believes it is appropriate to approve the CBOE proposal on a temporary basis through the December expiration.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6,⁴ and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁵ that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: September 22, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-22418 Filed 9-28-87; 8:45 am]

BILLING CODE 8010-01-M

³ The Commission notes that the OCC recently amended its disclosure document to disclose that the settlement of index option contracts may be altered, and also adopted a By-law amendment that will permit options exchanges to provide by rule that the settlement value of any index on which options are traded on a particular exchange will be determined by reference to the prices of the constituent stocks at times other than the close of trading. See, Securities Exchange Act Release Nos. 24259 (March 25, 1987), and 24277 (March 27, 1987).

⁴ 15 U.S.C. 78f (1982).

⁵ 15 U.S.C. 78s(b)(2) (1982).

¹ 15 U.S.C. 78s(b)(1) (1982).

² 17 CFR 240.10b-4 (1987).

[Rel. No. IC-16000; 812-6761]

Applications; Righttime Fund, Inc., et al.

September 23, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: The Righttime Fund, Inc.; The Righttime Fund Series, The Righttime Government Securities Fund Series and the Righttime Fund Blue Chip Fund Series of The Righttime Fund, Inc.; all future investment company series of The Righttime Fund, Inc.; and all future investment companies for which Righttime Econometrics, Inc., or subsidiaries or affiliates thereof serve as investment adviser (collectively "Funds"), and Righttime Econometrics, Inc. (the "Adviser").

Relevant 1940 Act Sections: Exemption requested under section 6(c) for an order permitting a joint transaction under section 17(d) of the Act and Rule 17d-1 thereunder.

Summary of Application: The Funds seek an order to permit them to deposit uninvested daily cash balances into a single joint account and to participate in a proposed joint trading account.

Filing Date: The application was filed on June 18, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 16, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant(s) with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, The Benson East Office Plaza, Jenkintown, Pennsylvania 19046.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney, (202) 272-3046, or Curtis R. Hilliard, Special Counsel, (202) 272-3030 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's

Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. The existing Funds are investment companies registered under the 1940 Act and are series of The Righttime Fund, Inc. Righttime Econometrics, Inc. serves as investment adviser to each of the Funds.

2. Purchase orders for shares of each of the Funds are received at the office of the Funds' distributor and transfer agent, Lincoln Investment Planning, Inc., and all purchase checks are deposited in The Righttime Fund, Inc.'s purchase account at First Pennsylvania Bank, N.A., on the day of receipt. The amount of monies deposited are not allocated to a particular Fund until after the Fund's net asset value per share is computed at the close of business on the day of receipt. Accordingly, such monies are not available for investment by a Fund in portfolio securities or repurchase agreements on that day and remain in the purchase account until wired to each Fund's custodian bank on the following day. During the twelve months ended May 31, 1987, the average daily amount in the combined purchase account was approximately \$483,333.24.

3. In addition, each of the Funds has, or may be expected to have, uninvested cash balances in its custodian bank from time to time which would not be invested in portfolio securities by the portfolio manager at the end of each trading day. In the normal course, if the amount of such assets of each Fund is separately of sufficient size, the Adviser attempts to invest the assets of such Fund in federal securities, overnight repurchase agreements with a bank or major brokerage house, or other similar short-term investment contracts, in order to earn additional income for that Fund. A Fund with residual assets which are not of adequate size to permit such an investment is unable to invest its residual assets in a similar manner.

4. The Funds believe that they can reduce expenses, earn additional income on their cash balances, and eliminate certain inefficiencies by pooling their cash balances held in the purchase and custodian accounts and investing these cash balances in one or more large repurchase agreements.

5. Applicants propose to establish a joint trading account ("Account"). Each Fund will automatically transfer its uninvested cash remaining after the conclusion of its daily trading activity into such custodial or sub-custodial

Account. The Account will not be distinguishable from any other accounts maintained by a Fund with its custodian bank or a designated sub-custodian bank except that monies from a Fund will be deposited on a commingled basis. The Account will not have any separate existence which will have indicia of a separate legal entity. The sole function of the Account will be to provide a convenient way of aggregating individual transactions which would otherwise require daily management by each Fund of its uninvested cash balances.

6. Cash in the Account will be invested in repurchase agreements collateralized by obligations issued or guaranteed as to principal and interest by the government of the United States or by any of its agencies or instrumentalities, and satisfying the uniform standards set by the Funds for such investments. Any repurchase agreement will have, with rare exceptions, an overnight or over-the-weekend duration, and in no event will it have a duration of more than seven days.

7. All investments held by the Account will be valued on an amortized cost basis. Each Fund will use the average maturity of the Account for the purpose of computing the Fund's average portfolio maturity with respect to the portion of its assets held in such Account on that day.

8. In order to assure that a Fund can only use its balance of the Account, Funds will not be allowed to create a negative balance in the Account for any reason. A Fund's decision to invest in the Account will be solely at the Fund's option. A Fund will not be obligated to invest in the Account nor to maintain any minimum balance. A Fund may withdraw all, or a portion, of its investment in the Account at any time. In addition, a Fund will retain the sole rights of ownership of any of its assets, including any interest payable on such assets invested in the Account. Each Fund's investment in the Account will be documented daily on the books of the Funds as well as on the books of the Fund's custodian.

9. Each Fund will participate in the income earned or accrued in the Account on each day on the basis of the Fund's percentage of the total amount in the Account on any day represented by its shares of the Account.

10. The Adviser will administer the investment of the cash balance in and operation of the joint account as part of its duties under its existing or any future

investment management contract with each Fund and would not collect any additional fee for the management of the joint account. The Adviser will continue to collect its fees based upon the total net assets of each separate Fund as provided in each respective investment management agreement.

11. The Account will be administered within the fidelity bond coverage required by section 17(g) of the 1940 Act and Rule 17g-1 thereunder. The Board of Directors of the existing Fund and of future funds participating in the Account will evaluate the Account arrangements annually, and will continue the Account only if they determine that there is a reasonable likelihood that the Account will benefit the Funds and their shareholders.

Applicants Legal Conclusions

1. Each Fund will participate in the Account on the same basis as every other Fund and in conformity with each Fund's fundamental investment objectives and restrictions. Participation in the Account will not result in any conflicts of interests between any of the Funds or between a Fund and the Adviser. Future series of the Righttime Fund, Inc. and future investment companies for which Righttime Econometrics, Inc., or its subsidiaries or affiliates serve as investment advisers, will be required to participate in the Account on the same terms and conditions as the existing Funds.

2. Applicants believe that the Funds will earn a higher return by participating in the Account rather than by maintaining individual accounts because it is possible to negotiate a rate of return on a large repurchase agreement which is greater than the rate of return which can be negotiated for smaller repurchase agreements. Also, the Funds will collectively save approximately \$18,750.00 in yearly transaction fees at present asset levels.

Applicants' Conditions

Applicants agree to operate the Account in accordance with the representations set forth in paragraphs 4 through 10 above and agree that such representations may be made express conditions of the requested order.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-22416 Filed 9-28-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[CM-8/117]

Advisory Committee to the United States National Section of the International Commission for the Conservation of Atlantic Tunas; Partially Closed Meeting

Notice is hereby given, pursuant to the provisions of Pub. L. 92-463, that a meeting of the Advisory Committee to the United States National Section of the International Commission for the Conservation of Atlantic Tunas will be held on October 29 and 30, 1987 beginning at 9:30 a.m. The meetings will be held at the offices of the National Marine Fisheries Service, Room 928, Universal Building (South), 1825 Connecticut Avenue NW., Washington, DC.

On October 29 and the morning of October 30 the meeting will be open to the public, and the public may participate in the discussions subject to the instructions of the Committee Chairman. Items on the agenda include overview of preparations for the Standing Committee on Research and Statistics (SCRS) meeting, review of research concerning Bluefin Tuna and Billfish, review of ICCAT Activities with respect to Tropical tunas and Albacore, report of Bluefin Tuna Fishery conducted in the U.S. and Canadian Zones, estimates of Japanese Harvest of Tunas and Billfish in the U.S. EEZ, review of the progress of the Swordfish Working Group, and review of the Large Pelagic Research Program.

The Advisory Committee will meet in closed session on the afternoon of October 30, 1987. At this session documents classified in accordance with Executive Order 12356 of April 2, 1982, will be circulated and discussed and matters will be considered which the public interest requires be withheld from disclosure. Accordingly, a determination has been made to close this session pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. I, s.10(d) and 5 U.S.C. 552b (c)(1) and (c)(9).

Requests for further information should be directed to Barbara Rothschild, Office of International Fisheries Affairs, National Marine Fisheries Service, Department of Commerce. She may be reached by telephone on (202) 673-5281.

Date: September 21, 1987.

Edward E. Wolfe,

Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 87-22431 Filed 9-28-87; 8:45 am]

BILLING CODE 4710-09-M

[CM-8/1120]

Shipping Coordinating Committee, National Committee for the Prevention of Marine Pollution; Meeting

The National Committee for the Prevention of Marine Pollution (NCPMP) will conduct a special meeting on October 26, 1987, at 1:30 p.m. in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of this special meeting will be to receive comments from the public to ascertain the desirability of having the Gulf of Mexico designated a "Special Area" under Annex V (Regulations for the Prevention of Pollution by Garbage from Ships) of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 Relating thereto (MARPOL 73/78). U.S. positions on Annex V and progress towards U.S. ratification will also be discussed.

A report from the Texas General Land Office compiling information in support of designating the Gulf of Mexico as a Special Area has been submitted to the Coast Guard. This report forms the basis for this special meeting. A copy of the report is available for review at U.S. Coast Guard Headquarters. A limited number are available upon request.

Annex V Special Area Definition: Special Area means a sea area where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by garbage is required. Special Areas shall include those listed in Regulation 5 of Annex V.

Annex V Requirements Outside Special Areas: Specifically, these requirements would apply to all ships and would prohibit:

(1) Disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags. The accidental loss of synthetic fishing nets is exempted providing that all reasonable efforts have been taken to prevent such loss;

(2) Disposal of dunnage, lining, and packing materials which will float within 25 nautical miles from the nearest land;

(3) Disposal of food wastes, glass, rags, paper, metal, bottles, crockery and similar refuse within 12 nautical miles from the nearest land.

Annex V would also require adequate reception facilities at ports and

terminals for reception of garbage from ships.

Annex V Requirements Within Special Areas: For an area designated a Special Area under Annex V, more stringent garbage discharge provisions would apply. Specifically, these requirements would apply to all ships and would prohibit the disposal of all garbage described above, except food wastes which may be discharged outside 12 nautical miles from the nearest land.

Members of the public may attend this meeting up to the seating capacity of the room.

For further information or documentation pertaining to the NCPMP meeting, contact either Commander D.B. Pascoe or Lieutenant G.T. Jones, U.S. Coast Guard Headquarters (G-MER-3), 2100 Second Street, SW., Washington, DC 20593-0001, Telephone: (202) 267-0419.

Date: September 22, 1987.

Richard C. Scissors,
Chairman, Shipping Coordinating Committee.
[FR Doc. 87-22432 Filed 9-28-87; 8:45 am]
BILLING CODE 4710-07-M

[CM-8/1122]

**Shipping Coordinating Committee;
Subcommittee on Ocean Dumping;
Meeting**

The Subcommittee on Ocean Dumping of the Shipping Coordinating Committee will hold an open meeting on Friday, October 9, 1987, at the Environmental Protection Agency, Waterside Mall, 401 M Street SW., Washington, DC. The meeting will convene at 10 a.m. in the EPA Conference Center, North Conference Room 9. The Conference Center is located on the first floor with entrance through the Mall commercial area. Members of the public are invited and free to attend up to the seating capacity of the room.

The purpose of the meeting is to discuss (1) U.S. response to a London Dumping Convention questionnaire on disposal of low-level radioactive waste at sea; (2) U.S. participation in a London Dumping Convention Intergovernmental Panel of Experts on Radioactive Waste Disposal at Sea, which will meet in London October 19-23, 1987; and (3) U.S. preparation for the London Dumping Convention Legal Experts Meeting to consider the Law of the Sea and liability, to be held in London simultaneously with the above-named Panel. If further information is needed, please contact Alan Sielen of the Office

of International Activities, EPA, at (202) 475-9630.

Richard C. Scissors,
Chairman, Shipping Coordinating Committee.
September 25, 1987.

[FR Doc. 87-22576 Filed 9-25-87; 5:04 pm]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Exception to Charter Policy; Hawaiian Submarines, Inc.

SUMMARY: Under 46 App. U.S.C. 808 (Act), it is unlawful, without the approval of the Secretary of Transportation, to charter vessels documented, or last documented, under the laws of the United States to noncitizens. The Secretary has delegated approval authority to the Maritime Administration (MARAD).

On July 3, 1975, MARAD revised its policy regarding bareboat and demise charters to persons who do not meet the standards set forth in 46 App. U.S.C. 802(a) for operation in the coastwise trade, and announced that approval of such transactions would no longer be granted (40 FR 28832, July 9, 1975).

Hawaiian Submarines, Inc., 615 Piikoi Street, Ste. 1510, Honolulu, Hawaii 96814, has filed application for MARAD approval of the bareboat charter of eight groups of vessels (each group being comprised of a submarine, a tender and a passenger launch), more fully described below, to Atlantis Submarines, Inc. (Atlantis), a Hawaiian corporation. Atlantis does not meet the requirements for United States citizenship in 46 App. U.S.C. 802. The vessels would be chartered for a period of 17 years, commencing late 1987, for the carriage of tourists on short underwater trips to view coral reefs, sunken vessels, and the like in Hawaii.

The eight submarines are either under construction at Everett, Washington, or will be constructed in the United States. They are battery powered, 65' in length, 1-2 knots speed, 78 gross tons, and will carry 48 passengers and a crew of three. The applicant has indicated that the submarines are certified to a depth of 150 feet and will comply with all American Bureau of Shipping and U.S. Coast Guard regulations. These submarines will be designated ATLANTIS 4 through ATLANTIS 11.

While being used, each submarine will be followed on the surface by a small tender that is available to assist in surface maneuvering and, if necessary, in the event of a mishap. The applicant has advised that they will acquire eight

20 to 30 foot diesel powered 17 knot vessels from qualified U.S. sources to serve as surface support and communication vessels for the submarines. These vessels, to be designated TENDER 4 through TENDER 11, will either be documented, or redocumented, in Hawaii, and will operate with a complement of one officer.

There will be a passenger launch for each submarine to ferry passengers from shore to the submarine and back. These launches are to be 50 to 60 feet in length, diesel powered 17 knot vessels, and designated LAUNCH 4 through LAUNCH 11. They also are to be acquired from qualified U.S. sources, will either be documented, or redocumented, in Hawaii, and will operate with a complement of two, one officer and one crew.

It is MARAD's opinion that, notwithstanding the policy statement of 1975, approval of the application should be granted for the following reasons:

1. The technology for the construction of the vessels providing the sightseeing service was developed by the Canadian parent of the charterer that proposes to operate the submarines. This technology would be transferred to U.S. shipbuilding and vessel operating interests.

2. Construction of the submarines will provide much-needed employment for U.S. shipyards.

3. The proposed service is unique and one for which there is no known competition.

4. Introduction of the service would increase maritime employment and promote tourism in the State of Hawaii.

Interested parties are invited to submit written comments regarding approval of the above application. MARAD will consider all written comments received on or before 30 days from publication date.

Send the original and one copy of comments to the Secretary, Maritime Administration, Department of Transportation, Rm. 7300, 400 Seventh Street, SW., Washington, DC 20590. Anyone submitting comments who wishes acknowledgment of their receipt by MARAD should include a stamped, self-addressed postcard or envelope.

Dated: September 22, 1987.

By Order of the Maritime Administrator.

James E. Saari,
Secretary.

[FR Doc. 87-22428 Filed 9-28-87; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

[Notice No. 87-3]

Compressed Gas Cylinders; DOT or ICC 4-Series Specification Cylinders; Potential Safety Problems

AGENCY: Research and Special Programs Administration, (RSPA), DOT.

ACTION: Advisory notice.

SUMMARY: The purpose of this notice is to advise interested persons that certain compressed gas cylinders, marked as meeting DOT or ICC 4-series specifications, and repaired or rebuilt in Puerto Rico, may not have been manufactured or maintained in full compliance with those specifications. Many of these welded or brazed steel cylinders, which are used for liquefied petroleum gas, are being imported from foreign manufacturers, and are being repaired or rebuilt by companies in Puerto Rico that have not been approved under the requirements of 49 CFR Part 173. Because RSPA is in the process of addressing this problem, it is not yet in a position to assure the public as to which of the DOT or ICC 4-series cylinders, currently in use, are in compliance and therefore presumptively safe for use. In the absence of such assurance, the RSPA is notifying persons in possession of cylinders for which compliance cannot be established that the cylinders may not be transported in commerce and should not be refilled after use.

FOR FURTHER INFORMATION CONTACT: James E. Henderson, Hazardous Materials Enforcement Division (DHM-10), Office of Hazardous Materials Transportation, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-4700.

SUPPLEMENTARY INFORMATION: The Hazardous Materials Regulations (HMR), issued under authority of the Hazardous Materials Transportation Act (Pub. L. 93-633; 49 App. U.S.C. 1801 *et seq.*), are found in the Code of Federal Regulations (CFR), Title 49, Subchapter C, which is comprised of Parts 171 through 179. In Subpart C of Part 178, the HMR set forth specifications for cylinders used as packagings for compressed gases.

In 1985, at the request of the Puerto Rican Public Service Commission (PRPSC), RSPA compliance inspectors inspected several Puerto Rican companies that repair or rebuild cylinders marked as meeting specifications in the DOT 4-series, (e.g., DOT 4B, 4BA, etc.). The PRPSC was

concerned about the compliance of these cylinders because the DOT had no record indicating that the companies had been approved for repairing (§ 173.34(i)) or rebuilding (§ 173.34(l)). The cylinders at issue are commonly used for the transportation of liquefied petroleum gases, such as butane and propane. During the inspection in 1985, some cylinders were identified as having been made by foreign manufacturers in the Caribbean Islands, and Central and South America. At that time, there were no foreign cylinder manufacturers in these areas approved under § 173.300b to manufacture cylinders for use in the United States.

Inspections performed at six of eight known repair facilities in Puerto Rico revealed that some of these companies were capable of becoming approved to repair non-pressurized parts. However, none had the equipment necessary to rebuild cylinders, which entails access to proper equipment for welding, performing heat treatments, physical testing and pressure testing. In cooperation with the PRPSC, these companies were notified of their noncompliance with the HMR, and told to contact the RSPA, Office of Hazardous Materials Transportation, Approvals Branch for approval requests. To date, one application for approval has been received, but none of these companies have been approved by RSPA.

In February 1987, DOT compliance inspectors conducted additional inspections in Puerto Rico in response to a complaint from a local company. During this investigation, the inspectors noticed that there was a marked increase in the number of cylinders in Puerto Rico manufactured by unapproved foreign manufacturers. Information supplied by the U.S. Coast Guard indicated that over 6,000 cylinders, manufactured by CILCASA, (Cilindros De Centro America, S.A.) of Guatemala City, Guatemala, were being imported into Puerto Rico. These cylinders were determined to have been manufactured without DOT approval. To date, the only approved foreign manufacturer of DOT 4-series cylinders, importing to Puerto Rico, in the area of concern, is Mangles Minas Ind., S.A, of Tres Coracoes, Brazil, which received an approval beginning October 8, 1986.

The regulatory issues associated with the manufacture, repairing and rebuilding of compressed gas cylinders, and violation of these requirements, are major concerns of the RSPA. Unapproved manufacture and unapproved repairing and rebuilding of cylinders, and the use of unauthorized cylinders for the transportation of

compressed gases, pose unnecessary risks to carrier personnel and the public at large, as well as significant regulatory problems. Each person who manufactures, rebuilds or repairs cylinders is required to comply with all applicable regulations, including the approval to manufacture, repair and rebuild cylinders.

Persons in possession of DOT 4-series cylinders which have been repaired or rebuilt in Puerto Rico are hereby notified that most of these cylinders are not in compliance with the applicable DOT specifications. They are not authorized for the transportation of hazardous materials, and may be unsafe. Cylinders repaired or rebuilt by approved companies can be identified by the letter "K" with 3 numbers (e.g., K123) stamped in a square pattern between the month and year of repairing or rebuilding. Example: A cylinder retested in August, 1987 by an approved retester who has been issued identification number K123 would be stamped as follows:

K1

8

87

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The RSPA is currently developing a comprehensive strategy to resolve the problem of unapproved and potentially unsafe cylinders in Puerto Rico. The strategy, of which this notice is but a first step, will utilize enforcement, both within and outside Puerto Rico. Other measures under consideration include conducting a compliance program to bring existing rebuilders and retesters into conformance with applicable regulations by providing on site technical/regulatory assistance. The RSPA intends to institute an inspection and hydrostatic testing program to determine which cylinders are unsafe. This strategy will also involve substantial assistance of the Puerto Rican Public Service Commission and the U.S. Customs Service. In addition, anyone with information concerning potential violations of the HMR with regard to the manufacture and repair of cylinders in Puerto Rico is requested to submit that information to Mr. James E. Henderson, Hazardous Materials Enforcement Division (DHM-40), Office of Hazardous Materials Transportation, Research and Special Programs

Administration, U.S. Department of Transportation, Washington, DC 20590. (49 U.S.C. 1802, 1803, 1804, 1805, 1806, 1808; 49 CFR 1.53(e)).

Issued in Washington, DC on September 24, 1987 under the authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 87-22412 Filed 9-28-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 25-87]

Treasury Notes of September 30, 1989; Series AD-1989

September 17, 1987.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately \$9,250,000,000 of United States securities, designated Treasury Notes of September 30, 1989, Series AD-1989 (CUSIP No. 912827 VH 2), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated September 30, 1987, and will accrue interest from that date, payable on a semiannual basis on March 31, 1988, and each subsequent 6 months on September 30 and March 31 through the date that the principal becomes payable. They will mature September 30, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt

from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of \$5,000, \$10,000, \$100,000 and \$1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, et seq. (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving Time, Tuesday, September 22, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, September 21, 1987, and received no later than Wednesday, September 30, 1987.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is \$5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than \$1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers,

which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount of each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a $\frac{1}{8}$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the

offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5, must be made or completed on or before Wednesday, September 30, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, September 28, 1987. In addition, Treasury Tax and Loan Note Option Depositories may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Wednesday, September 30, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-22513 Filed 9-25-87; 2:22 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 26-87]

Treasury Notes of September 30, 1991; Series P-1991

September 17, 1987.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately \$7,250,000,000 of United States securities, designated Treasury Notes of September 30, 1991, Series P-1991 (CUSIP No. 912827 VJ 8), hereafter referred to as Notes. The Notes will be sold at auction, with

bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated September 30, 1987, and will accrue interest from that date, payable on a semiannual basis on March 31, 1988, and each subsequent 6 months on September 30 and March 31 through the date that the principal becomes payable. They will mature September 30, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, et seq. (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, September 23, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 22, 1987, and received no later than Wednesday, September 30, 1987.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is \$1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than \$1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a $\frac{1}{8}$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve

Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5, must be made or completed on or before Wednesday, September 30, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, September 28, 1987. In addition, Treasury Tax and Loan Note Option Depositories may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Wednesday, September 30, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-22511 Filed 9-25-87; 2:22 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 27-87]

Treasury Notes of October 15, 1994; Series G-1994

September 17, 1987.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately \$6,750,000,000 of United States securities, designated Treasury Notes of October 15, 1994, Series G-1994 (CUSIP No. 912827 VK 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated October 7, 1987, and will accrue interest from that date, payable on a semiannual basis on April 15, 1988, and each subsequent 6 months on October 15 and April 15 through the date that the principal becomes payable. They will mature October 15, 1994, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest

thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, et seq. (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Thursday, September 24, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, September 23, 1987, and received no later than Wednesday, October 7, 1987.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is \$1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than \$1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in

Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount on noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to

provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Department of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5, must be made or completed on or before Wednesday, October 7, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, October 5, 1987. In addition, Treasury Tax and Loan Note Option Depositories may make payment for the Notes allotted for their own

accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Wednesday, October 7, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Department of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Department of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Department of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-22512 Filed 9-25-87; 2:22 pm]

BILLING CODE 4810-40-M

OFFICE OF MANAGEMENT AND BUDGET

Meeting; President's Commission on Privatization

SUMMARY: Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the President's Commission on Privatization will be held.

DATE AND TIME: September 30, 1987, from 1:00 p.m. to 6:00 p.m.

ADDRESS: Room 608 of the Dirksen Senate Office Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wiley Horsley, Commission Staff Manager, temporarily at the Department of the Interior, 18th and C Streets NW., Washington, DC 20240, 202/343-3347.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Commission members to discuss which privatization issues it will pursue, to decide on certain procedural matters and to be briefed on specifics of privatization in housing and be provided materials relating to that issue. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including committee members). Places will be allocated on a first come, first served basis.

James C. Miller, III,

Director, Office of Management and Budget.

[FR Doc. 87-22637 Filed 9-28-87; 1:22 pm]

BILLING CODE 3110-01-M

Sunshine Act Meetings

Federal Register

Vol. 52, No. 188

Tuesday, September 29, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 P.M. (Eastern Time) Tuesday, October 6, 1987.

PLACE: Clarence M. Mitchell, Jr., Conference Room, No. 200-C on the Second Floor of the Columbia Plaza Building, 2401 E Street, NW., Washington, DC 20507.

STATUS: Part of the meeting will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations—[A Resolution Honoring Mary-Jean S. Moore]
3. Proposed Management Directive No. 713, Affirmative Action for the Hiring, Placement and Advancement of Individuals with Handicaps
4. Proposed Management Directive No. 714, Instructions for the Development and Submission of Federal Affirmative Employment Multi-Year Program Plans, Annual Accomplishment Reports and Annual Plan Updates for Fiscal Year 1988 Through Fiscal Year 1992

Closed Session

1. Consideration of Certain Commissioners' Charges
2. Litigation Authorizations: General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION:

Cynthia C. Matthews, Acting Executive Officer on (202) 634-6748.

Date: September 24, 1987.

Cynthia Clark Matthews,
Executive Officer (Acting), Executive Secretariat.

This Notice Issued September 24, 1987.
[FR Doc. 87-22439 Filed 9-25-87; 9:41 am]
BILLING CODE 6750-06-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11:00 a.m., Monday, October 5, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1.

Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: September 25, 1987.

James McAfee,
Associate Secretary of the Board
[FR Doc. 87-22528 Filed 9-25-87; 3:42 pm]
BILLING CODE 6210-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

TIME AND DATE: The meeting will commence at 8:00 p.m. on Thursday, October 1, 1987, and continue at 9:00 a.m. on Friday, October 2, 1987, until all official business is completed. The notice of the meeting was published previously in the Federal Register of September 24, 1987 (52 FR 35993).

PLACE: Loews L'Enfant Plaze Hotel, Caucus Room (Executive Session), L'Enfant Ballroom (A), 480 L'Enfant Road, Washington, DC 20024.

STATUS OF MEETING: Open (A portion of the meeting is to be closed to discuss personnel, personal, litigation, and investigatory matters under The Government in the Sunshine Act (5 U.S.C. 552b (c) (2), (6), (7), (9) (B), and (10) and 45 CFR 1622.5(a), (e), (f), (g), and (h).

MATTERS TO BE CONSIDERED:

1. Personnel and Personal Matters (closed, Executive Session)
2. Litigation and Investigation Matters (closed, Executive Session)
3. Approval of Agenda
4. Approval of Minutes, August 28, 1987
5. Consideration and Review of LSC Budget FY 1988

*Delivery of Legal Assistance

- Basic Field Programs
- Native American Programs and Components
- Migrant Programs and Components
- Reserve for Special Adjustments
- Program Development
- Law School Clinics & Recruitment
- Supplemental Field Programs
- * Support for the Delivery of Legal Assistance
 - Training Development & Technical Assistance
 - Regional Training Centers
 - National Support
 - State Support
 - Clearinghouse
 - CALR Grants
 - Special Elderly Programs
 - Special Law School Grants
- * Management and Administration.

6. Voucher Project Status Report
7. Report on Law School Clinics

Discussion and Public Comment follow each item.

CONTACT PERSON FOR MORE INFORMATION:

Maureen R. Bozell, Executive Office. (202) 863-1839.

Date Issued: September 25, 1987.
Maureen R. Bozell,
Secretary.

[FR Doc. 87-22531 Filed 9-25-87; 3:42 pm]
BILLING CODE 6820-35-M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 2:30 p.m., Wednesday, September 23, 1987.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Closed to public observation pursuant to 5 U.S.C. 552b(c)(9)(B) (premature disclosure of information where such disclosure would be likely to significantly frustrate implementation of a proposed agency action).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION:

John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC 20570, Telephone (202) 254-9430.

Dated, Washington, DC, September 25, 1987.

By direction of the Board.

John C. Truesdale,
*Executive Secretary, National Labor
Relations Board.*

[FR Doc. 87-22544 Filed 9-25-87; 4:01 pm]

BILLING CODE 7445-01-M.

SECURITIES AND EXCHANGE COMMISSION
"FEDERAL REGISTER" CITATION OF
PREVIOUS ANNOUNCEMENT: (52 FR 35609
September 22, 1987).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW.,
Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday,
August 31, 1987.

CHANGE IN THE MEETING: Deletion.

The following item was not
considered at a closed meeting on
Tuesday, September 22, 1987:

Report of investigation.

Commissioner Fleischman, as duty
officer, determined that Commission
business required the above change.

At times changes in Commission
priorities require alterations in the
scheduling of meeting items. For further
information and to ascertain what, if
any, matters have been added, deleted
or postponed, please contact: Patrick
Daugherty at (202) 272-3077.

Shirley E. Hollis,

Assistant Secretary.
September 22, 1987.

[FR Doc. 87-22414 Filed 9-24-87; 4:33 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the
provisions of the Government in the
Sunshine Act, Pub. L. 94-409, that the
Securities and Exchange Commission
will hold the following meetings during
the week of September 28, 1987:

An open meeting will be held on
Wednesday, September 30, 1987, at 10:00
a.m., followed by a closed meeting.

The Commissioners, Counsel to the
Commissioners, the Secretary of the
Commission, and recording secretaries
will attend the closed meeting. Certain
staff members who are responsible for
the calendared matter may also be
present.

The General Counsel of the
Commission, or his designee, has
certified that, in his opinion, one or more
of the exemptions set forth in 5 U.S.C.
552b(c)(4), (8), (9)(A) and (10) and 17
CFR 200.402(a)(4), (8), (9)(i) and (10),
permit consideration of the scheduled
matters at a closed meeting.

Commissioner Fleischman, as duty
officer, voted to consider the items listed
for the closed meeting in closed session.

The subject matter of the open
meeting scheduled for Wednesday,
September 30, 1987, at 10:00 a.m., will
be:

Consideration of whether to recommend to
the Congress proposed amendments to the
Trust Indenture Act of 1939. If enacted, the
amendments would conform the Act to
contemporary financing techniques, expand
the Commission's exemptive authority,
promulgate new conflicts-of-interest
standards for indenture trustees, permit
certain foreign persons to act as indenture
trustees, and effect miscellaneous technical
changes. For further information, please
contact Michael Hyatte at (202) 272-2573.

The subject matter of the closed
meeting scheduled for Wednesday,
September 30, 1987, following the 10:00
a.m. open meeting, will be:

Institution of injunctive actions.

Institution of administrative proceedings of
an enforcement nature.

Settlement of administrative proceedings of
an enforcement nature.

Report of investigation.

Formal orders of investigation.

At times changes in Commission
priorities require alterations in the
scheduling of meeting items. For further
information and to ascertain what, if
any, matters have been added, deleted

or postponed, please contact: Kevin
Fogarty at (202) 272-3195.

Shirley E. Hollis,

Assistant Secretary.
September 22, 1987.

[FR Doc. 87-22415 Filed 9-24-87; 4:33 pm]

BILLING CODE 8010-01-M.

**UNIFORMED SERVICES UNIVERSITY OF THE
HEALTH SCIENCES**

TIME AND DATE: 8:00 a.m., October 5,
1987.

PLACE: Uniformed Services University of
the Health Sciences, Room D3-001, 4301
Jones Bridge Road, Bethesda, Maryland
20814-4799.

STATUS: Open—under "Government in
the Sunshine Act" (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:00 Meeting—Board of Regents

(1) Approval of Minutes—July 20,
1987; (2) Faculty Matters; (3) Report—
Admission; (4) Report—Associate Dean
for Operations; (5) Report—President,
USUHS; (a) University Awards, (b)
Hebert School of Medicine, (c) Post
Graduate School of Military Medicine,
(d) Henry M. Jackson Foundation for the
Advancement of Military Medicine, (e)
Civilian Employee Drug Abuse Testing
Program, (f) University Advance; (6)
Comments—Members, Board of
Regents; (7) Comments—Acting
Chairman, Board of Regents; (8) Faculty
Presentations

New Business

Scheduled Meetings: January 11, 1988.

CONTACT PERSON FOR MORE

INFORMATION: Donald L. Hagenruber,
Executive Secretary of the Board of
Regents, 202/295-3028.

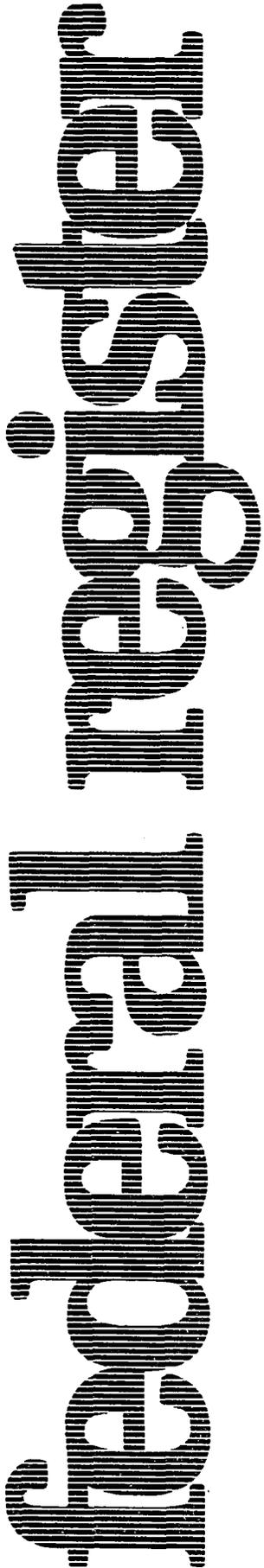
Patricia H. Means,

OSD Federal Register Liaison Officer,
Department of Defense.

September 24, 1987.

[FR Doc. 87-22434 Filed 9-25-87; 9:13 am]

BILLING CODE 3810-01-M



Tuesday
September 29, 1987

Part II

**Department of the
Interior**

Fish and Wildlife Service

**50 CFR Part 20
Migratory Bird Hunting; Late Seasons
and Bag and Possession Limits for
Certain Migratory Game Birds in the
United States; Final Rule**

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the late open seasons, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons; special restrictions to reduce the black duck harvest; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; additional sandhill crane seasons in the Central Flyway and in Arizona; coots, common moorhens, and snipe in the Pacific Flyway; and additional special extended falconry seasons. Taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The rules will permit taking of the designated species during the 1987-88 season within specified periods of time beginning as early as September 26.

EFFECTIVE DATE: September 29, 1987.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, Matomic Building Room 536, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC, telephone 202-254-3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

On March 13, 1987, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the *Federal Register* (52 FR 7900) a proposal to amend 50 CFR Part 20, with comment periods ending June 18, July 14 and August 25, 1987, respectively, for the 1987-88 hunting season frameworks proposed for Alaska, Hawaii, Puerto Rico, and the Virgin Islands; other early seasons; and the late hunting seasons.

That document dealt with the establishment of hunting seasons, hours, areas, and limits for migratory game birds under §§ 20.101 through 20.107 and § 20.109 of Subpart K. On June 3, 1987, the Service published in the *Federal Register* (52 FR 20757) a second document consisting of a supplemental proposed rulemaking dealing with the early- and late-season frameworks. On July 2, 1987, the Service published for public comment in the *Federal Register* (52 FR 25170) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early-season migratory bird hunting regulations. On August 3, 1987, the Service published in the *Federal Register* (52 FR 28717) a fourth document containing final frameworks for Alaska, Puerto Rico, and the Virgin Islands. On August 6, 1987, the Service published a fifth document (52 FR 29187) containing final frameworks for other early-season migratory bird hunting regulations from which State wildlife conservation agency officials selected early-season hunting dates, shooting hours, areas and limits for 1987-88. On August 14, 1987, the Service published in the *Federal Register* (52 FR 30395) a sixth document consisting of proposed frameworks for the late-season migratory bird hunting regulations. On August 24, 1987, the Service published in the *Federal Register* (52 FR 31773) a seventh document consisting of a final rule amending Subpart K of 50 CFR Part 20 to set hunting seasons, hours, areas, and limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and common moorhens and purple gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky and Tennessee; Canada geese in September in portions of Illinois, Michigan, and Minnesota; sandhill cranes in the Central and Pacific Flyways; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and special extended falconry seasons. On September 18, 1987, the Service published in the *Federal Register* an eighth document (52 FR 35248) consisting of a final rulemaking for the late-season frameworks for migratory game bird hunting regulations from which State wildlife conservation agency officials selected late season hunting dates, hours, areas, and limits for 1987-88.

The final rule described here is the ninth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird

hunting regulations and deals specifically with amending Subpart K of 50 CFR Part 20 to set hunting seasons, hours, areas and limits for species subject to late hunting regulations.

Nontoxic Shot Regulations

In the July 21, 1987, *Federal Register* (52 FR 27352) the Service published a final rule describing areas in which lead shot is prohibited for hunting waterfowl, coots and certain other species in the 1987-88 hunting seasons. Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council of Environmental Quality on June 6, 1975, and notice of availability was published in the *Federal Register* on June 13, 1975, (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of the environmental assessments are available from the Service at the address indicated under the caption "ADDRESSES" in the *Federal Register* of September 18, 1987 (52 FR 35248). As noted in the March 13, 1987, *Federal Register* (52 FR 7905), the Service is preparing a Supplemental Environmental Impact Statement (SEIS) on the FES. A draft SEIS will be available in early October.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act "[and shall]" insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or adverse modification of [critical] habitat * * *." The Service therefore initiated Section 7 consultation under the Endangered Species Act for the proposed hunting season regulations frameworks.

On June 15, 1987, the Office of Endangered Species concluded that the proposed actions were not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior, Washington, DC.

Regulatory Flexibility Act, Executive Order 12291 and Paperwork Reduction Act

In the **Federal Register** dated March 13, 1987 (52 FR 7900), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by Section 4 of Executive Order 12291, in the **Federal Register** dated August 3, 1987 (52 FR 28717).

Authorship

The primary author of this final rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

After analysis of the migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the late season proposals (52 FR 7900, March 13, 1987; 52 FR 20757, June 3, 1987; and 52 FR 30395, August 14, 1987), the Service published in the **Federal Register** on September 18, 1987 (52 FR 35248) final late-season frameworks. Copies of the final frameworks were sent to the officials of the State conservation agencies who were invited to submit recommendations for hunting seasons which complied with the season times and lengths, hours, areas, and limits specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The following amendments will permit taking of the designated species within specified time periods beginning as early as September 26 and will benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting, must, by its nature, operate under severe time constraints.

However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemakings were published on March 13, June 3, and August 14, 1987, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that when the comment period closed time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select their season dates, shooting hours, hunting areas, and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. (d)(3) (Administrative Procedure Act), and these regulations will, therefore, take effect immediately upon publication.

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, Chapter I, Subchapter B, Part 20, Subpart K, are hereby corrected and amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports,
Transportation, Wildlife.

BILLING CODE 4310-55-M

PART 20 - [AMENDED]

For the reasons set out in the preamble, Title 50, Chapter I, Subchapter B, Part 20, Subpart K is revised as follows.

1. The authority citation for Part 20 continues to read as follows:
 Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65-186, 40 Stat. 755 (16 U.S.C. 701-708h); sec. 3(h), Pub. L. 95-616, 92 Stat. 3112 (16 U.S.C. 712); Alaska Game Act of 1925, 43 Stat. 739, as amended, 54 Stat. 1103-04.

Note - The following annual hunting regulations provided for by Sections 20.104, 20.105, 20.106, 20.107 and 20.109 of 50 CFR Part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.104 is revised to read as follows:

20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Daily bag limit.....	25 (1)	See footnote (2).	5 (3)	8
Possession limit.....	25 (1)	See footnote (2).	10 (3)	16
Shooting Hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.				

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in the Atlantic Flyway:

Connecticut.....	Sep. 1-Nov. 7.	Sep. 1-Nov. 7.	Oct. 17-Nov. 30.	Oct. 17-Dec. 5.
Delaware.....	Sep. 1-Nov. 9.	Sep. 1-Nov. 9.	Nov. 16-Dec. 30.	Nov. 16-Jan. 31.
Florida.....	Sep. 1-Nov. 9.	Sep. 1-Nov. 9.	Dec. 12-Jan. 25.	Nov. 1-Feb. 15.
Georgia.....	Sep. 5-Nov. 13.	Sep. 5-Nov. 13.	Nov. 28-Jan. 11.	Nov. 20-Feb. 28.
Maine.....	Sep. 1-Nov. 9.	Closed.	Oct. 1-Nov. 14.	Sep. 1-Dec. 16.
Maryland.....	Sep. 1-Nov. 9.	Sep. 1-Nov. 9.	Oct. 14-Nov. 27.	Oct. 1-Jan. 15.
Massachusetts.....	Sep. 1-Nov. 8.	Closed.	Oct. 10-Nov. 23.	Sep. 1-Dec. 13.
New Hampshire.....	Closed.	Closed.	Oct. 1-Nov. 14.	Oct. 1-Nov. 30.

New Jersey (4):

North Zone.....	Sep. 1-Nov. 9.	Sep. 1-Nov. 9.	Oct. 10-Nov. 13.	Oct. 2-Jan. 16.
South Zone.....	Sep. 1-Nov. 9.	Sep. 1-Nov. 9.	Nov. 7-Dec. 5 & Dec. 19-Dec. 24.	Oct. 2-Jan. 16.

New York:

Long Island.....	Closed.	Closed	Oct. 1-Nov. 14.	Closed.
Remainder of State.....	Sep. 1-Nov. 9.	Closed.	Oct. 1-Nov. 14.	Sep. 1-Dec. 16.

North Carolina.....	Sep. 7-Nov. 14.	Sep. 7-Nov. 14.	Nov. 21-Jan. 4.	Nov. 13-Feb. 27.
Pennsylvania.....	Sep. 1-Nov. 7.	Closed.	Oct. 17-Nov. 7.	Oct. 17-Dec. 12.
Rhode Island.....	Sep. 14-Nov. 22.	Sep. 14-Nov. 22.	Oct. 17-Nov. 30.	Sep. 14-Dec. 4 & Dec. 14-Jan. 7.
South Carolina.....	Sep. 4-Oct. 10 & Oct. 23-Nov. 24.	Sep. 4-Oct. 10 & Oct. 23-Nov. 24.	Nov. 26-Jan. 9.	Nov. 14-Feb. 28.
Vermont.....	Sep. 26-Dec. 4.	Closed.	Oct. 1-Nov. 14.	Sep. 26-Dec. 4.
Virginia.....	Sep. 1-Nov. 9.	Sep. 1-Nov. 9.	Nov. 2-Nov. 26 & Dec. 21-Jan. 9.	Oct. 16-Jan. 30.
West Virginia.....	Sep. 1-Nov. 7.	Closed.	Oct. 17-Nov. 30.	Sep. 1-Dec. 16.

Seasons in the Mississippi Flyway:

Alabama (10).....	Nov. 12-Jan. 20.	Nov. 12-Jan. 20.	Nov. 28-Jan. 31.	Nov. 14-Feb. 28.
Arkansas.....	Sep. 1-Nov. 9.	Closed.	Nov. 7-Dec. 13 & Jan. 9-Feb. 5.	Sep. 12-Sep. 20 & Nov. 21-Feb. 26.
Illinois.....	Sep. 1-Nov. 9.	Closed.	Oct. 1-Dec. 4.	Sep. 12-Dec. 29.
Indiana.....	Sep. 1-Nov. 9.	Closed.	Sep. 19-Sep. 25 &	Sep. 1-Dec. 16. Oct. 3-Nov. 29.
Iowa (5).....	Sep. 5-Nov. 13.	Closed.	Sep. 19-Nov. 22.	Sep. 5-Dec. 20.
Kentucky.....	Nov. 26-Jan. 16.	Closed.	Oct. 1-Dec. 4.	Oct. 1-Dec. 4.
Louisiana.....	Sep. 19-Sep. 27 & Nov. 7-Jan. 6.	Sep. 19-Sep. 27 & Nov. 7-Jan. 6.	Dec. 5-Feb. 7.	Nov. 7-Feb. 21.
Michigan (6).....	Sep. 15-Nov. 14.	Closed.	Sep. 15-Nov. 14.	Sep. 15-Nov. 14.
Minnesota.....	Sep. 1-Nov. 4.	Closed.	Sep. 1-Nov. 4.	Sep. 1-Nov. 4.
Mississippi.....	Oct. 17-Dec. 25.	Oct. 17-Dec. 25.	Dec. 26-Feb. 28.	Nov. 14-Feb. 28.
Missouri.....	Sep. 1-Nov. 9.	Closed.	Oct. 15-Dec. 18.	Sep. 1-Dec. 16.
Ohio.....	Sep. 1-Nov. 9.	Closed.	Sep. 25-Nov. 28.	Sep. 1-Nov. 28 & Dec. 7-Dec. 24.
Tennessee.....	Dec. 9-Jan. 17.	Closed.	Oct. 24-Nov. 29 & Feb. 1-Feb. 28.	Nov. 14-Feb. 28.
Wisconsin(13)				
North Duck Zone..	Oct. 1-Nov. 9	Closed.	Sep. 12-Nov. 15.	Oct. 1-Nov. 9.
South Duck Zone..	Oct. 1-Oct. 11 & Oct. 21-Nov. 18.	Closed	Sep. 12-Nov. 15.	Oct. 1-Oct. 11 & Oct. 21-Nov. 18.

Seasons in the Central Flyway:

Colorado (7).....	Sep. 1-Nov. 9.	Closed.	Closed.	Sep. 1-Dec. 2.
Kansas.....	Sep. 12-Nov. 20.	Closed.	Oct. 3-Dec. 6.	Sep. 12-Dec. 27.
Montana (7).....	Closed.	Closed.	Closed.	Oct. 3-Dec. 1.
Nebraska (8).....	Sep. 1-Nov. 9.	Closed.	Sep. 15-Nov. 18.	Sep. 1-Dec. 15.

New Mexico(7)(11) ..	Sep. 1-Oct. 31.	Closed.	Closed.	Sep. 1-Nov. 30.
North Dakota.....	Closed.	Closed.	Closed.	Oct. 3-Nov. 22.
Oklahoma.....	Sep. 1-Nov. 9.	Closed.	Oct. 24-Dec. 27.	Oct. 1-Jan. 15.
South Dakota (9)...	Closed.	Closed.	Closed.	Sep. 1-Oct. 31.
Texas.....	Sep. 1-Nov. 9.	Sep. 1-Nov. 9.	Nov. 21-Jan. 24.	Oct. 31-Feb. 14.
Wyoming (7).....	Sep. 19-Nov. 27.	Closed.	Closed.	Sep. 19-Jan. 3.
<u>Seasons in the Pacific Flyway:</u>				
Arizona(12).....	Closed.	Closed.	Closed.	Oct. 9-Nov. 29 & Dec. 15-Jan. 10.
California:				
Northeastern				
Zone(4).....	Closed.	Closed.	Closed.	Oct. 10-Dec. 27.
Colorado River				
Zone.....	Closed.	Closed.	Closed.	Oct. 9-Nov. 29 & Dec. 15-Jan. 10.
Southern				
Zone(4).....	Closed.	Closed.	Closed.	Oct. 17-Nov. 29 & Dec. 7-Jan. 10.
Balance of the				
State Zone.....	Closed.	Closed.	Closed.	Oct. 24-Jan. 10.
Colorado (7).....	Sep. 1-Nov. 9.	Closed.	Closed.	Sep. 1-Dec. 2.
Idaho(4):				
Zone 1.....	Closed.	Closed.	Closed.	Oct. 10-Dec. 27.
Zone 2.....	Closed.	Closed.	Closed.	Oct. 10-Nov. 29 & Dec. 7-Jan. 3.
Montana (7).....	Closed.	Closed.	Closed.	Oct. 3-Dec. 20.
Nevada(13):				
Clark County.....	Closed.	Closed.	Closed.	Oct. 24-Jan. 10.
Remainder of				
State.....	Closed.	Closed.	Closed.	Oct. 17-Jan. 3.
New Mexico(7)(11) ..	Sep. 1-Oct. 31.	Closed.	Closed.	Sep. 1-Nov. 30.
Oregon:				
Morrow and Umatilla				
Counties.....	Closed.	Closed.	Closed.	Oct. 17-Jan. 10.
Remainder of				
State.....	Closed.	Closed.	Closed.	Oct. 17-Nov. 29 & Dec. 7-Jan. 10.
Utah(13).....	Closed.	Closed.	Closed.	Oct. 3-Dec. 6 & Dec. 21-Jan. 3.
Washington:				
Eastern Washing-				
ton(4)(13).....	Closed.	Closed.	Closed.	Oct. 17-Jan. 10.
Western Washing-				
ton(4)(13).....	Closed.	Closed.	Closed.	Oct. 17-Nov. 6 & Nov. 14-Jan. 10.
Wyoming (7).....	Sep. 19-Nov. 27.	Closed.	Closed.	Sep. 19-Dec. 20.

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.

(2) In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.

(3) In States of the Atlantic Flyway, the woodcock bag limit is 3 daily and 6 in possession.

(4) For description of zones or management units within a State, see State regulations.

(5) In Iowa, rail limits are 15 daily and 25 in possession.

(6) See State regulations for listing of certain Great Lakes waters where the season is to open concurrently with the duck season.

(7) The Central Flyway portion consists of: Colorado and Wyoming -- the area lying east of the Continental Divide; Montana -- the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; New Mexico -- the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remaining portions of these States are in the Pacific Flyway.

(8) In Nebraska, the rail limits are 10 daily and 20 in possession.

(9) In South Dakota, the snipe limits are 5 daily and 15 in possession.

(10) In Alabama, the rail limits are 15 daily and 15 in possession.

(11) In New Mexico, the rail limits are 10 daily and 10 in possession.

(12) In Arizona, Ashurst Lake in Unit 5B is closed to common snipe hunting.

(13) Check State regulations for shooting hours restrictions.

3. Section 20.105 is amended to read as follows:

20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Waterfowl, coots and gallinules in Atlantic, Mississippi, Central, and Pacific Flyways.

ATLANTIC FLYWAY

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

Flywaywide Restrictions.

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted--Check State regulations.

Canvasbacks - All areas of the Flyway are closed to canvasback hunting.

Black ducks -- When the black duck is permitted in the daily bag, it is part of the daily and possession limits for ducks.

Hooded mergansers -- In States selecting conventional regulations, no more than 1 hooded merganser may be taken daily nor more than 2 hooded mergansers may be possessed.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

The season dates for mergansers and coots are the same as those for ducks in the following tables:

	Season Dates	Limits	
		Bag	Possession
<u>Connecticut</u>			
Ducks:			
North Zone (1)			
Black Ducks	Nov. 25-Dec. 26.	1	2
Ducks	Oct. 17-Oct. 24 & Nov. 25-Dec. 26.	4(2)	8(2)
Extra teal during regular season	Oct. 17-Oct. 24.	2(3)	4(3)
South Zone (1)			
Black Ducks	Dec. 9-Jan. 16.	1	2
Ducks	Oct. 17 & Dec. 9-Jan. 16.	4(2)	8(2)
Extra teal during regular season	Oct. 17.	2(3)	4(3)
Scaup-only season (4)	Jan. 18-Jan. 30.	5	10
Sea ducks (5) (6) (7)	Oct. 2-Jan. 16.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 7.	15(8)	30(8)
Geese:			
Canada:			
North Zone	Oct. 17-Jan. 14.	3	6
South Zone	Oct. 17 & Nov. 9-Jan. 14. Jan. 15-Feb. 5.	3 5	6 10
Snow (including blue):		4	8
North Zone	Oct. 17-Jan. 14.		
South Zone	Oct. 17 & Nov. 3-Jan. 30.		
Brant:		2	4
North Zone	Dec. 16-Jan. 14.		
South Zone	Dec. 18-Jan. 16.		
<u>Delaware</u>			
Ducks:			
Black Ducks	Nov. 24-Nov. 28 & Dec. 5-Jan. 2.	1	2
Ducks	Nov. 2-Nov. 7 & Nov. 24-Nov. 28 & Dec. 5-Jan. 2.	4(2)	8(2)
Extra teal during regular season	Nov. 2-Nov. 7 & Nov. 24-Nov. 26.	2(3)	4(3)
Extra scaup during regular season	Nov. 2-Nov. 7 & Nov. 24-Nov. 28 & Dec. 5-Jan. 2.	2(3)	4(3)
Sea ducks(5) (6) (7)	Sept. 26-Jan. 9.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(8)	30(8)
Geese:			
Canada			
	Nov. 2-Nov. 28.	2	6
	Dec. 5-Jan. 23.	3	6
Snow (including blue)	Oct. 19-Oct. 31(9) & Nov. 2-Nov. 28 & Dec. 5-Jan. 23.	4	8
Brant	Dec. 21-Jan. 19.	2	4
<u>Florida</u>			
Ducks:			
Special September season	Sept. 26-Sept. 30.	4	8

Regular season	Nov. 25-Nov. 29 & Dec. 15-Jan. 18		Point system.
Scaup-only season(4)	Jan. 19-Jan. 31.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(8)	30(8)
Geese	Closed.	-	-
<u>Georgia</u>			
Ducks:			
Black ducks	Nov. 26-Nov. 28 & Dec. 12-Jan. 17.	1	2
Ducks	Nov. 26-Nov. 28 & Dec. 12-Jan. 17.	4(2)	8(2)
Extra teal during regular season	Nov. 26-Nov. 28 & Dec. 12-Dec. 17.	2(3)	4(3)
Extra scaup during regular season (17)	Nov. 26-Nov. 28 & Dec. 12-Jan. 17.	2(3)	4(3)
Sea ducks(5) (6) (7)	Nov. 26-Jan. 17.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Nov. 26-Nov. 28 & Dec. 12-Jan. 17.	15(8)	30(8)
Geese	Closed.	-	-
Brant	Closed.	-	-
<u>Maine</u>			
North Zone (Wildlife Management Units 1-5)			
Black Ducks:			
Units 1-3	Oct. 5-Nov. 9.	1	2
Units 4 & 5	Oct. 16-Nov. 9.		
Ducks	Oct. 1-Nov. 9.	4(2)	8(2)
Extra teal during regular season	Oct. 1-Oct. 9.	2(3)	4(3)
South Zone (Wildlife Management Units 6-8)			
Black Ducks			
Ducks	Nov. 12-Dec. 7. Oct. 1-Oct. 14 & Nov. 12-Dec. 7.	1	2
Extra teal during regular season	Oct. 1-Oct. 9.	2(3)	4(3)
Scaup only season (4)	Oct. 27-Nov. 11.	5	10
Sea ducks(5) (6) (7)	Oct. 1-Jan. 15.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(8)	30(8)
Geese:			
Canada	Oct. 1-Dec. 9.	3	6
Snow (including blue)	Oct. 1-Dec. 29.	4	8
Brant	Oct. 1-Oct. 30.	2	4
<u>Maryland</u>			
Ducks:			
Black Ducks	Nov. 23-Nov. 27 & Dec. 7-Jan. 2.	1	2
Ducks	Oct. 9-Oct. 10 & Nov. 17-Nov. 27 & Dec. 7-Jan. 2.	4(2)	8(2)
Extra teal during regular season	Oct. 9-Oct. 10 & Nov. 17-Nov. 23.	2(3)	4(3)
Extra scaup during regular season	Oct. 9-Oct. 10 & Nov. 17-Nov. 27 & Dec. 7-Jan. 2.	2(3)	4(3)
Sea ducks(5) (6) (7)	Oct. 6-Jan. 20.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Closed.		

Geese:

Canada:

Delmarva Peninsula(1)	Nov. 13-Nov. 27 & Dec. 7-Jan. 30.	3	6
Remainder of State	Nov. 3-Nov. 27 & Dec. 7-Jan. 20.	3	6
Snow (including blue)	Oct. 24-Nov. 27 & Dec. 7-Jan. 30.	4	8
Brant	Nov. 25-Nov. 27 & Dec. 7-Jan. 2.	2	4

Massachusetts

Ducks:

Western (Berkshire) Zone (1)			
Black Ducks	Oct. 13-Nov. 21.	1	2
Ducks	Oct. 13-Nov. 21.	4(2)	8(2)
Extra teal during regular season	Oct. 13-Oct. 21.	2(3)	4(3)
Central Zone (1)			
Black Ducks	Oct. 13-Oct. 24 & Nov. 21-Dec. 18.	1	2
Ducks	Oct. 13-Oct. 24 & Nov. 21-Dec. 18.	4(2)	8(2)
Extra teal during regular season	Oct. 13-Oct. 21.	2(3)	4(3)
Coastal Zone (1)			
Black Ducks	Oct. 20-Oct. 24 & Nov. 25-Dec. 29.	1	2
Ducks	Oct. 20-Oct. 24 & Nov. 25-Dec. 29.	4(2)	8(2)
Extra teal during regular season	Oct. 20-Oct. 24.	2(3)	4(3)
Scaup-only season(4)	Jan. 15-Jan. 30.	5	10
Sea ducks(5) (6) (7)	Oct. 2-Jan. 16.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Closed.		

Geese:

Canada:

Western (Berkshire) Zone (1)	Oct. 13-Nov. 28 & Dec. 11-Jan. 2.	3	6
Central Zone (1)	Oct. 13-Oct. 24 & Nov. 21-Jan. 16.	3	6
Coastal Zone (1)	Oct. 20-Oct. 31 & Nov. 25-Jan. 20. Jan. 21-Feb. 5.	3 5	6 10

Snow (including blue):

Western (Berkshire) Zone (1)	Oct. 13-Nov. 28 & Dec. 11-Jan. 2.	4	8
Central Zone (1)	Oct. 13-Oct. 24 & Nov. 21-Jan. 16.	4	8
Coastal Zone (1)	Oct. 20-Oct. 31 & Nov. 25-Jan. 20.	4	8

Brant:

Inland & Central Zone	Closed.		
Coastal Zone	Dec. 18-Jan. 16.	2	4

New Hampshire

Ducks:

Inland Zone (1)			
Black Ducks	Oct. 5-Oct. 29 & Nov. 21-Dec. 5.	1	2
Ducks	Oct. 5-Oct. 29 & Nov. 21-Dec. 5.	4(2)	8(2)
Extra teal during regular season	Oct. 5-Oct. 13.	2(3)	4(3)

Coastal Zone (1)			
Black Ducks	Oct. 17-Oct. 25 & Nov. 26-Dec. 26.	1	2
Ducks	Oct. 17-Oct. 25 & Nov. 26-Dec. 26.	4(2)	8(2)
Extra teal during regular season	Oct. 17-Oct. 25.	2(3)	4(3)
Scaup only season (4)	Dec. 27-Jan. 11.	5	10
Sea ducks(5) (6) (7)	Sept. 15-Dec. 30.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Closed.		
Geese:			
Canada:		3	6
Inland Zone	Oct. 5-Dec. 13.		
Coastal Zone	Oct. 17-Dec. 25.		
Snow (including blue):		4	8
Inland Zone	Oct. 5-Jan. 2.		
Coastal Zone	Oct. 17-Jan. 2.		
Brant:		2	4
Inland Zone	Oct. 5-Nov. 3.		
Coastal Zone	Nov. 26-Dec. 25.		

New Jersey

Ducks:

North Zone (1)			
Black Ducks	Oct. 10-Oct. 24 & Nov. 25-Dec. 19.	1	2
Ducks	Oct. 10-Oct. 24 & Nov. 25-Dec. 19.	4(2)	8(2)
Extra teal during regular season	Oct. 10-Oct. 17.	2(3)	4(3)
South Zone (1)			
Black Ducks	Oct. 10-Oct. 17 & Nov. 25-Dec. 26.	1	2
Ducks	Oct. 10-Oct. 17 & Nov. 25-Dec. 26.	4(2)	8(2)
Extra teal during regular season	Oct. 10-Oct. 17.	2(3)	4(3)
Coastal Zone (1)			
Black Ducks	Oct. 31-Nov. 7 & Dec. 2-Jan. 2.	1	2
Ducks	Oct. 31-Nov. 7 & Dec. 2-Jan. 2.	4(2)	8(2)
Extra teal during regular season	Oct. 31-Nov. 7.	2(3)	4(3)
Scaup only season (4)	Jan. 8-Jan. 23.	5	10
Sea ducks(5) (6) (7)	Oct. 2-Jan. 16.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	10(8)	20(8)
Geese:			
Canada:		4	8
North Zone (1)	Oct. 10-Oct. 31 & Nov. 17-Jan. 23.		
South Zone (1)	Oct. 10-Oct. 31 & Nov. 24-Jan. 30.		
Coastal Zone (1)	Oct. 10-Nov. 7 & Nov. 24-Jan. 23.		
Snow (including blue)	Oct. 10-Jan. 7.	4	8
Brant	Oct. 31-Nov. 7 & Dec. 2-Dec. 23.	2	4

New York

Long Island Zone:

Ducks:

Black Ducks	Nov. 20-Nov. 29 & Dec. 12-Jan. 10.	1	2
Ducks	Nov. 20-Nov. 29 & Dec. 12-Jan. 10.	4(2)	8(2)

Scaup only season(4)	Jan. 16-Jan. 31.	5	10
Extra teal during regular season	Nov. 20-Nov. 28.	2(3)	4(3)
Sea ducks (5) (6) (7)	Sept. 26-Jan. 11.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:	Nov. 3-Jan. 31.		
Canada		3	6
Snow (including blue)		4	8
Brant	Dec. 12-Jan. 10.	2	4
Lake Champlain Zone:			
Ducks:			
Black Ducks	Oct. 7-Oct. 11 & Oct. 24-Nov. 27.	1	2
Ducks	Oct. 7-Oct. 11 & Oct. 24-Nov. 27.	4(2)	8(2)
Special scaup and goldeneye season (11)	Nov. 28-Dec. 13.	3	6
Extra teal during regular season	Oct. 7-Oct. 11.	2(3)	4(3)
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 26-Dec. 4.	15(8)	30(8)
Geese:	Oct. 7-Dec. 15.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 17-Nov. 15.	2	4
Northeastern Zone (1):			
Ducks:			
Black Ducks	Oct. 5-Oct. 18 & Nov. 4-Nov. 15.	1	2
Ducks	Oct. 5-Oct. 18 & Nov. 4-Nov. 29.	4(2)	8(2)
Extra teal during regular season	Oct. 5-Oct. 13.	2(3)	4(3)
Extra scaup during regular season	Oct. 5-Oct. 18 & Nov. 4-Nov. 29.	2(3)	4(3)
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(8)	30(8)
Geese:	Oct. 5-Jan. 2.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 17-Nov. 15.	2	4
Southeastern Zone (1):			
Ducks:			
Black Ducks	Nov. 7-Dec. 6.	1	2
Ducks	Oct. 9-Oct. 18 & Nov. 7-Dec. 6.	4(2)	8(2)
Extra teal during regular season	Oct. 9-Oct. 17.	2(3)	4(3)
Extra scaup during regular season	Oct. 9-Oct. 18 & Nov. 7-Dec. 6.	2(3)	4(3)
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(8)	30(8)
Geese:	Oct. 9-Jan. 6.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 17-Nov. 15.	2	4
Western Zone (1):			
Ducks:			
Black Ducks	Oct. 16-Nov. 15.	1	2
Ducks	Oct. 16-Nov. 15 & Nov. 28-Dec. 6.	4(2)	8(2)
Extra teal during regular season	Oct. 16-Oct. 24.	2(3)	4(3)

Extra scaup during regular season	Oct. 16-Nov. 15 & Nov. 28-Dec. 6.	2(3)	4(3)
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(8)	30(8)
Geese:	Oct. 1-Nov. 15 & Nov. 28-Jan. 10.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 17-Nov. 15.	2	4
<u>North Carolina</u>			
Ducks:			
Black Ducks	Oct. 1-Oct. 3 & Nov. 26-Nov. 28 & Dec. 14-Jan. 16.	1	2
Ducks	Oct. 1-Oct. 3 & Nov. 26-Nov. 28 & Dec. 14-Jan. 16.	4(2) (10)	8(2) (10)
Extra scaup during regular season (12)	Oct. 1-Oct. 3 & Nov. 26-Nov. 28 & Dec. 14-Jan. 16.	2(3)	4(3)
Extra teal during regular season	Oct. 1-Oct. 3 & Nov. 26-Nov. 28 & Dec. 14-Dec. 16.	2(3)	4(3)
Sea ducks(5) (6) (7)	Oct. 2-Jan. 16.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 7-Nov. 14.	15(8)	30(8)
Geese:			
Canada:			
East of I-95	Dec. 31-Jan. 16.	1	2
West of I-95	Closed.		
Snow (including blue)	Nov. 2-Jan. 30.	4	8
Brant	Dec. 18-Jan. 16.	2	4
Tundra swan	Nov. 2-Jan. 30.	only by permit; 1 swan per season	
<u>Pennsylvania</u>			
Ducks:			
North Zone (1)			
Black Ducks	Oct. 31-Nov. 21.	1	2
Ducks	Oct. 14-Nov. 21.	4(2)	8(2)
Extra teal during regular season	Oct. 14-Oct. 21.	2(3)	4(3)
South Zone (1)			
Black Ducks	Nov. 13-Dec. 5.	1	2
Ducks	Oct. 19-Oct. 24 & Nov. 13-Dec. 16.	4(2)	8(2)
Extra teal during regular season	Oct. 19-Oct. 24.	2(3)	4(3)
Northwest Zone (1)			
Black Ducks	Nov. 4-Nov. 28.	1	2
Ducks	Oct. 16-Oct. 23 & Nov. 4-Dec. 5.	4(2)	8(2)
Extra teal during regular season	Oct. 16-Oct. 23.	2(3)	4(3)
Lake Erie Zone (1)			
Black Ducks	Nov. 3-Dec. 12.	1	2
Ducks	Nov. 3-Dec. 12.	4(2)	8(2)
Extra teal during regular season	Nov. 3-Nov. 11.	2(3)	4(3)
Extra scaup during regular season	Nov. 3-Dec. 12.	2(3)	4(3)
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 7.	15(8)	30(8)

<u>Geese:</u>			
Canada		3(18)	6
Snow (including blue)		3	6
North Zone (1)	Oct. 7-Dec. 15.		
South Zone (1)	Oct. 19-Dec. 26.		
Northwest Zone (1)	Oct. 7-Dec. 15.		
Lake Erie Zone (1)	Oct. 7-Dec. 15.		
Southeastern Zone (1)	Oct. 19-Jan. 16.		
Brant	Oct. 19-Nov. 16.	2	4
<u>Rhode Island</u>			
<u>Ducks:</u>			
Black Ducks	Oct. 9-Oct. 12 & Nov. 25-Nov. 29 & Dec. 5-Jan. 4.	1	2
Ducks	Oct. 9-Oct. 12 & Nov. 25-Nov. 29 & Dec. 5-Jan. 4.	4(2)	8(2)
Extra teal during regular season	Oct. 9-Oct. 12 & Nov. 25-Nov. 29.	2(3)	4(3)
Scaup-only season (4)	Jan. 16-Jan. 31.	5	10
Sea ducks(5)(6)(7)	Oct. 9-Jan. 20.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 14-Nov. 22.	15(8)	30(8)
<u>Geese:</u>			
Canada	Oct. 9-Oct. 12 & Nov. 7-Jan. 31.	3	6
Snow (including blue)		4	8
Brant	Dec. 7-Jan. 5.	2	4
<u>South Carolina</u>			
<u>Ducks:</u>			
Mottled duck	Closed.	-	-
Black Ducks (13)	Dec. 14-Jan. 18.	1	2
Ducks	Nov. 25-Nov. 28 & Dec. 14-Jan. 18.	4(2)	8(2)
Extra teal during regular season	Jan. 10-Jan. 18.	2(3)	4(3)
Extra scaup during regular season (14)	Nov. 25-Nov. 28 & Dec. 14-Jan. 18.	2(3)	4(3)
Sea ducks(5)(6)(7)	Oct. 6-Jan. 20.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 4-Oct. 10 & Oct. 23-Nov. 24.	15(8)	30(8)
<u>Geese:</u>			
Canada	Closed		
Snow (including blue)	Nov. 25-Nov. 28 & Dec. 14-Jan. 18.	4	8
Brant	Dec. 20-Jan. 18.	2	4
<u>Vermont</u>			
<u>Ducks:</u>			
Lake Champlain Zone (1)			
Black Ducks	Oct. 7-Oct. 11 & Oct. 24-Nov. 27.	1	2
Ducks	Oct. 7-Oct. 11 & Oct. 24-Nov. 27.	4(2)	8(2)
Extra teal during regular season	Oct. 7-Oct. 11.	2(3)	4(3)
Special scaup and goldeneye season (11)	Nov. 28-Dec. 13.	3	6
Interior Vermont Zone (1)			
Black Ducks	Oct. 7-Nov. 15.	1	2
Ducks	Oct. 7-Nov. 15.	4(2)	8(2)
Extra teal during regular season	Oct. 7-Oct. 15.	2(3)	4(3)

Extra scaup during regular season	Oct. 7-Nov. 15.	2(3)	4(3)
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 26-Dec. 4.	15(8)	30(8)
Geese:			
Canada		3	6
Snow (including blue)		4	8
Lake Champlain Zone	Oct. 7-Dec. 15.		
Interior Vermont Zone	Oct. 7-Dec. 15.		
Brant		2	4
Lake Champlain Zone	Oct. 17-Nov. 15.		
Interior Vermont Zone	Oct. 17-Nov. 15.		

Virginia

Ducks:

Black Ducks	Oct. 7-Oct. 10 & Nov. 26-Nov. 28 & Dec. 17-Jan. 18.	1	2
Ducks	Oct. 7-Oct. 10 & Nov. 26-Nov. 28 & Dec. 17-Jan. 18.	4(2) (10)	8(2) (10)
Extra teal during regular duck season	Oct. 7-Oct. 10 & Nov. 26-Nov. 28 & Dec. 17-Dec. 18.	2(3)	4(3)
Scaup only season(4)	Jan. 19-Jan. 30.	5	10
Sea ducks(5) (6) (7)	Oct. 6-Jan. 20.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Same as for ducks.	15(8)	30(8)
Geese:			
Canada:			
Back Bay Area(15)	Nov. 26-Nov. 28 & Dec. 4-Dec. 12 & Dec. 14-Jan. 20.	2	4
Delmarva Peninsula	Oct. 31 & Nov. 2-Nov. 7 & Nov. 9-Jan. 30.	4	8
Remainder of State	Nov. 10-Nov. 14 & Nov. 16-Nov. 21 & Nov. 23-Jan. 20.	3	6
Snow (including blue):			
Back Bay Area (16)	Nov. 26-Nov. 28 & Dec. 17-Jan. 18.	4	8
Remainder of State	Oct. 31 & Nov. 2-Nov. 7 & Nov. 9-Jan. 30.	4	8
Brant	Dec. 18-Dec. 19 & Dec. 21-Dec. 26 & Dec. 28-Jan. 18.	2	4

West Virginia

Ducks:

Allegheny Mountain Upland Zone (Zone 2) (1)			
Black Ducks	Oct. 5-Oct. 17 & Nov. 2-Nov. 26.	1	2
Ducks	Oct. 5-Oct. 17 & Nov. 2-Nov. 26.	4(2)	8(2)
Extra teal during regular season	Oct. 5-Oct. 13.	2(3)	4(3)
Extra scaup during regular season	Oct. 5-Oct. 17 & Nov. 2-Nov. 26.	2(3)	4(3)
Remainder of State (Zone 1)(1)			
Black Ducks	Oct. 5-Oct. 17 & Dec. 23-Jan. 16.	1	2
Ducks	Oct. 5-Oct. 17 & Dec. 23-Jan. 16.	4(2)	8(2)

Extra teal during regular season	Oct. 5-Oct. 13.	2(3)	4(3)
Extra scaup during regular season	Oct. 5-Oct. 17 & Dec. 23-Jan. 16.	2(3)	4(3)
Gallinules/Moorhens		15(8)	30(8)
Zone 1	Oct. 5-Oct. 17 & Dec. 23-Jan. 16.		
Zone 2	Oct. 5-Oct. 17 & Nov. 2-Nov. 26.		
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Allegheny Mountain Upland Zone (1)	Oct. 5-Oct. 17 & Nov. 2-Nov. 26.		
Remainder of State	Oct. 5-Oct. 17 & Dec. 23-Jan. 16.		
Canada		3	6
Snow (including blue)		4	8
Brant		2	4
Allegheny Mountain Upland Zone	Nov. 2-Nov. 26.		
Remainder of State	Dec. 23-Jan. 16.		

Point system -- Ducks, mergansers and coots. The Atlantic Flyway States selecting the point system bag limits on designated species are listed in the table above.

The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have legally been taken in 2 days.

The point values assigned to the species and sexes are as follows:

Atlantic Flyway

100 points	70 points	20 points	35 points
Female mallard	Wood duck	Blue-winged teal	Male mallard
Black duck	Redhead	Green-winged teal	Ring-necked
Pintail	Hooded merganser	Shoveler	duck
Florida tree duck (only in Florida)		Gadwall	Bufflehead
Mottled duck (except South Carolina)		Wigeon	and all other
		Scaup	species of
		Sea ducks	ducks
		Mergansers (except hooded)	

Note: All areas of the Flyway are closed to canvasback hunting.

(1) Described in the September 18, 1987, Federal Register (52 FR 35248) and/or the State Regulations.

(2) The daily bag limit may include no more than 3 mallards of which only 1 may be a hen, 1 pintail, 1 black duck, 2 wood ducks, 2 redheads and 1 fulvous tree duck. The possession limit is twice the daily bag limit.

(3) The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

(4) A special hunting season for scaup only is prescribed in those areas which are described, delineated and designated in the hunting regulations of the State.

(5) An open season for taking scoter, eider, and oldsquaw ducks is prescribed during the period between September 15, 1987, and January 20, 1988, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey,

South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season conventional or point-system daily bag and possession limits.

(6) The daily bag limit is 7 and possession limit is 14, singly or in the aggregate of these species. Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(7) Notwithstanding the provisions of this Part 20 the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

(8) Bag and possession limits given for common moorhens and purple gallinules, are singly or in the aggregate of the two species. In Florida, the gallinule season applies to the common gallinule only. There is no open season on the purple gallinule in Florida.

(9) In Delaware, during October 19 through October 31 the snow goose season is limited to the area bounded on the north by Delaware Route 6, on the west by Delaware Route 9, on the south by the Leipsic River and on the east by the Delaware Bay. Hunting will only be allowed under permits issued by the Delaware Division of Fish and Wildlife or the Refuge Manager of Bombay Hook National Wildlife Refuge.

(10) No special daily bag and possession limit restrictions apply to wood ducks in North Carolina during October 1-October 3, and in Virginia during October 7-October 10.

(11) In the Lake Champlain Zone (described and delineated in the hunting regulations of New York and Vermont) a special hunting season for scaup and goldeneye is prescribed with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and 6 scaup or 6 goldeneyes or 6 in the aggregate in possession.

(12) Only in waters east of U.S. Highway 17, except Currituck Sound north of U.S. Highway 158.

(13) In South Carolina, there is no open season on black ducks in Georgetown, Charleston, Colleton, and Beaufort Counties.

(14) Only in waters east of U.S. Highway 17, north of Charleston, and east of the old Seaboard Railroad bed south of Charleston.

(15) In Virginia, the Back Bay Area is defined for Canada geese as those portions of the cities of Virginia Beach and Chesapeake lying east of U.S. Highway 17 and Interstate 64. Canada geese may only be taken on the waters of Back Bay, November 26-28 and December 17-January 18.

(16) In Virginia, the Back Bay Area is defined for snow (including blue) geese as the waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Lake Tecumseh and Red Wing Lake and the marshes adjacent thereto.

(17) East of Intracoastal Waterway in Chatham, Bryan, Liberty, McIntosh, Glynn and Camden Counties, Georgia.

(18) In Crawford, Erie, Mercer and Butler Counties, Pennsylvania the Canada goose daily bag limit is 1.

MISSISSIPPI FLYWAY

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

Flywaywide Restrictions

Shooting hours: One-half hour before sunrise to sunset daily except as otherwise restricted--Check State regulations.

Canvasbacks - All areas of the Flyway are closed to canvasback hunting.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

The season dates for mergansers and coots are the same as those for ducks in the following tables.

	Season Dates	Limits	
		Bag	Possession
<u>Alabama</u>			
Ducks:		Point system.	
North Zone (1)	Dec. 9-Jan. 17.		
South Zone (1)	Nov. 13-Nov. 22 & Dec. 19-Jan. 17.		
Coots		15	30
Gallinules/Moorhens	Nov. 12-Jan. 20.	15(5)	15(5)
Geese:	Nov. 9-Jan. 17.	5	5
Limits include no more than:			
Canada or white-fronted 2		4	
Snow (including blue) and brant		5	5
<u>Arkansas</u>			
Ducks	Nov. 21-Dec. 6 & Dec. 19-Jan. 11.	Point system.	
Coots		15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(5)	30(5)
Geese:		5	10
Canada	Closed.	-	-
Snow (including blue)	Nov. 21-Jan. 29.	5	10
White-fronted geese	Nov. 21-Jan. 17.	2	4
Brant	Nov. 21-Jan. 17.	5	10
<u>Illinois:</u>			
Ducks:		Point system.	
North Zone (1)	Oct. 14-Nov. 22.		
Central Zone (1)	Oct. 22-Nov. 30.		
South Zone (1)	Oct. 29-Dec. 7.		
Coots		15	30
Geese(2):		5	10
Canada(3):		2	4
North Zone(1):			
Tri-County Area(1)	Oct. 22-Nov. 20.	1	4
Remainder of North Zone	Oct. 14-Nov. 22.	2	4
Central Zone (1):			
Tri-County Area(1)	Oct. 22-Nov. 20.	1	4
Remainder of Central Zone	Oct. 22-Nov. 30.	2	4
South Zone (1):			
Southern Illinois Quota Zone (Alexander, Jackson, Union, and Williamson Counties) (3)	Nov. 16-Jan. 4.	2	4
Rend Lake Quota Zone (Franklin and Jefferson Counties) (3)	Nov. 16-Jan. 4.	2	4
Remainder of South Zone	Nov. 16-Dec. 25.	2	4
Other Geese:			
North Zone (1)	Oct. 14-Nov. 22.		

Central Zone (1)	Oct. 22-Nov. 30.		
South Zone (1)	Nov. 16-Dec. 25.		
Limits include no more than:			
White-fronted geese		2	4
Snow (including blue) and brant		5	10
<u>Indiana</u>			
Ducks:		Point system.	
North Zone (1)	Oct. 16-Oct. 19 & Oct. 30-Dec. 4.		
South Zone (1)	Oct. 24-Oct. 27 & Nov. 21-Dec. 26.		
Ohio River Zone (1)	Nov. 26-Nov. 29 & Dec. 5-Jan. 9.		
Scaup-only season (Lake Michigan only) (4)	Dec. 12-Dec. 27.	5	10
Coots		15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(5)	30(5)
Geese:		5	10
Canada(3):		2	4
North Zone (1)	Oct. 16-Oct. 19 & Oct. 30-Jan. 3.		
South Zone (1):			
Posey County (3)	Dec. 13-Jan. 31.		
Remainder of South Zone	Oct. 24-Oct. 28 & Nov. 14-Jan. 17.		
Ohio River Zone(1):			
Posey County	Dec. 13-Jan. 31.		
Remainder of Ohio River Zone	Nov. 9-Jan. 17.		
Other Geese:			
North Zone(1)	Oct. 16-Oct. 19 & Oct. 30-Jan. 3.		
South Zone(1)	Oct. 24-Oct. 28 & Nov. 14-Jan. 17.		
Ohio River Zone(1)	Nov. 9-Jan. 17.		
Limits include no more than:			
White-fronted geese		2	4
Snow (including blue) and brant		5	10
<u>Iowa</u>			
Ducks:		Point system.	
North Zone(1)	Oct. 17-Nov. 20.		
South Zone(1)	Oct. 24-Nov. 29.		
Coots		15	30
Geese:		5	10
Canada:		2	4
Southwest Zone (1)	Oct. 17-Nov. 30.		
Remainder of State	Oct. 3-Nov. 16.		
Other geese:			
Southwest Zone (1)	Oct. 17-Dec. 25.		
Remainder of State	Oct. 3-Dec. 11.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
<u>Kentucky</u>			
Ducks		Point system.	
	Nov. 26-Nov. 29 & Dec. 12-Jan. 16.		
Coots		15	30
Gallinules/Moorhens	Nov. 26-Jan. 16.	15(5)	30(5)
Geese(2):		5	10
Canada:		2	4
Western Zone (1) (3)	Dec. 12-Jan. 30.		

Remainder of State	Nov. 8-Jan. 16.		
Other geese:			
Western Zone(1) (6)	Nov. 26-Jan. 17.		
Remainder of State	Nov. 8-Jan. 16.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
<u>Louisiana</u>			
Ducks:		Point system.	
East Zone (1)	Nov. 21-Nov. 30 & Dec. 19-Jan. 17.		
West Zone (1)	Nov. 7-Nov. 29 & Dec. 19-Jan. 9.		
Scaup only season (4)	Jan. 18-Jan. 31.	5	10
Coots		15	30
Gallinules/Moorhens	Sept. 19-Sept. 27 & Nov. 7-Jan. 6.	15(5)	30(5)
Geese:			
Canada	Closed.	-	-
Other Geese:		5	10
East Zone(1)	Nov. 21-Jan. 29.		
West Zone (1)	Nov. 7-Nov. 29 & Dec. 19-Feb. 3.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
<u>Michigan</u>			
Ducks:		Point system.	
North Zone (1)	Oct. 3-Nov. 11.		
Middle Zone (1)	Oct. 3-Nov. 11.		
South Zone (1)	Oct. 10-Nov. 15 & Nov. 27-Nov. 29.		
Scaup only season:			
South Zone (1) (4)	Nov. 16-Nov. 26.	5	10
Remainder of State(4)	Nov. 14-Nov. 29.	5	10
Coots		15	30
Gallinules/Moorhens:		15(5)	30(5)
North Zone(1)	Oct. 3-Nov. 11.		
Middle Zone(1)	Oct. 3-Nov. 11.		
South Zone(1)	Oct. 10-Nov. 15 & Nov. 27-Nov. 29.		
Geese:		5	10
Canada(3):			
North Zone (1):			
Superior Counties			
Goose Management Area(1) (3)	Sept 26-Oct. 15.	2	4
Remainder of North Zone	Sept. 26-Nov. 4.	2	4
Middle Zone (1)	Oct. 3-Nov. 11.	2	4
South Zone (1):			
Allegan County			
Goose Management Area(1) (3)	Oct. 17-Nov. 29.	1	2
Muskegon Wastewater			
Goose Management Area (1) (3)	Oct. 17-Nov. 13 & Dec. 1-Dec. 13.	2	4
Saginaw County			
Goose Management Area (1) (3)	Oct. 3-Nov. 15 & Nov. 27-Nov. 29.	2	4

Southern Michigan			
Goose Management Area(1):			
East of U.S.			
Highways 27 and 127	Oct. 10-Nov. 15 & Nov. 27-Nov. 29 & Jan. 9-Feb. 7.	2	4
West of U.S.			
Highways 27 and 127	Oct. 10-Nov. 15 & Nov. 27-Nov. 29. Jan. 9-Feb. 7.	1	2
Remainder of South Zone:			
East of U.S.			
Highways 27 and 127	Oct. 10-Nov. 15 & Nov. 27-Nov. 29.	2	4
West of U.S.			
Highways 27 and 127	Oct. 10-Nov. 15 & Nov. 27-Nov. 29.	1	2
Other geese:			
North Zone (1)	Sept. 26-Nov. 11.		
Middle Zone (1)	Oct. 3-Nov. 11.		
South Zone (1)	Oct. 10-Nov. 15 & Nov. 27-Nov. 29.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
<u>Minnesota</u>			
Ducks:	Oct. 3-Nov. 11.	4	8
Limits include no more than:			
Mallards (no more than 1 female mallard daily or 2 in possession)		2	4
Pintails		2	4
Black ducks		1	2
Wood ducks		2	4
Redheads		1	2
Mergansers (no more than 1 hooded merganser daily or 2 in possession) 5		10	
Coots		15	30
Gallinules/Moorhens	Oct. 3-Nov. 11.	15(5)	30(5)
Geese:		5	10
Canada:			
West Central Zone			
(Lac qui Parle Goose Management Block) (1):			
Lac qui Parle			
Quota Zone(1) (3)	Oct. 3-Nov. 1.	1	2
Remainder of Lac qui Parle Goose Management Block			
Southeastern Zone (1):	Oct. 3-Nov. 1.	1	2
Metro Goose Management Block(1) and Olmsted County			
Oct. 3-Dec. 11 & Dec. 18-Dec. 27.		2	4
Remainder of Southeastern Zone			
Oct. 3-Dec. 11.		2	4
Remainder of State	Oct. 3-Nov. 11.	1	2
Other geese:			
Lac qui Parle Goose Management Block(1)			
Oct. 3-Nov. 1.			
Southeastern Zone(1)	Oct. 3-Dec. 11.		

Remainder of State	Oct. 3-Nov. 11.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
<u>Mississippi</u>			
Ducks	Dec. 5-Dec. 7 & Dec. 12-Jan. 17.	Point system.	
Coots		15	30
Gallinules/Moorhens	Oct. 17-Dec. 25.	15(5)	30(5)
Geese:		5	10
Canada:		2	4
Sardis Zone (1)	Dec. 5-Dec. 14 & Jan. 12-Jan. 31.	1	2
Remainder of State	Jan. 3-Jan. 17.	1	2
Other geese	Nov. 9-Jan. 17.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
<u>Missouri</u>			
Ducks:		Point system.	
North Zone (1)	Oct. 31-Dec. 9.		
South Zone (1)	Nov. 21-Dec 13 & Dec. 26-Jan. 11.		
Coots		15	30
Geese(2):		5	10
Canada:			
North Zone (1):			
Swan Lake			
Zone (1) (3)	Oct. 31-Dec. 9.	2	4
Southeastern Zone (east of U.S. Highway 67 and south of Crystal City)	Dec. 9-Jan. 17.	1	2
Remainder of North Zone	Oct. 31-Dec. 9.	1	2
South Zone (1):			
Southeastern Zone (1)	Dec. 9-Jan. 17.	1	2
Remainder of South Zone	Nov. 21-Dec. 13 & Dec. 26-Jan. 11.	1	2
Other geese:			
North Zone(1)	Oct. 31-Jan. 8.		
South Zone(1)	Nov. 9-Jan. 17.		
Southeastern Zone(1)	Nov. 9-Jan. 17.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
<u>Ohio</u>			
Pymatuning Area (1):			
Ducks:			
Black Ducks	Nov. 4-Nov. 28.	1	2
Other Ducks	Oct. 16-Oct. 23 & Nov. 4-Dec. 5.	4	8
Limits include no more than:			
Mallards (no more than 1 female daily or 2 in possession)		3	6
Black Ducks		1	2
Pintails		1	2

Wood Ducks		2	4
Redheads		2	4
Extra teal during regular season	Oct. 16-Oct. 23.	2	4
Coots		15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(5)	30(5)
Mergansers (except hooded)		5	10
Hooded mergansers		1	2
Geese:			
Brant	Oct. 19-Nov. 16.		
Other Geese	Oct. 7-Dec. 15.		
Limits include no more than:			
Canada		1	6
Snow (including blue)		3	6
Brant		2	4
Remainder of State:			
Ducks:		4	8
North Zone (1)	Oct. 19-Nov. 21 & Dec. 7-Dec. 12.		
South Zone (1)	Oct. 19-Oct. 31 & Dec. 7-Jan. 2.		
Ohio River Zone (1)	Oct. 19-Oct. 31 & Dec. 21-Jan. 16.		
Limits include no more than:			
Mallards (no more than 1 female mallard daily or 2 in possession)		2	4
Pintails		2	4
Black ducks		1	2
Wood ducks		2	4
Redheads		1	2
Scaup-only (North Zone only) (4)	Dec. 28-Jan. 12.	5	10
Coots		15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(5)	30(5)
Geese	Oct. 19-Nov. 28 & Dec. 7-Jan. 4.	5	10
Limits include no more than:			
Canada:		2	4
Ashtabula, Auglaize, Erie, Lucas, Marion, Mercer, Ottawa, Sandusky, Trumbull, and Wyandot Counties	1	2	
Remainder of State		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
<u>Tennessee</u>			
Ducks:			Point system
Reelfoot Zone (1)	Nov. 7-Nov. 10 & Dec. 13-Jan. 17.		
State Zone (1)	Dec. 9-Jan. 17.		
Coots		15	30
Gallinules/Moorhens	Dec. 9-Jan. 17.	15(5)	30(5)
Geese:		5	10
Canada:			
Northwest Zone(1)(3)	Dec. 13-Jan. 31.	2	4
Southwest Zone (1)	Jan. 3-Jan. 17.	1	2
Remainder of State:			
West of Highway 13	Nov. 9-Jan. 17.	2	4
East of Highway 13	Nov. 9-Jan. 17.	1	2
Other geese	Nov. 9-Jan. 17.		
Limits include no more than:			
White-fronted		2	4

Snow (including blue) and brant		5	10
<u>Wisconsin</u>			
Ducks:		Point system	
North Duck Zone (1)	Oct. 1-Nov. 9.		
South Duck Zone (1)	Oct. 1-Oct. 11 & Oct. 21-Nov. 18.		
Scaup-only season:			
North Duck Zone (1) (4)	Nov. 10-Nov. 25.	5	10
South Duck Zone (1) (4)	Nov. 19-Dec. 4.	5	10
Coots		15	30
Gallinules/Moorhens:		15(5)	30(5)
North Duck Zone (1)	Oct. 1-Nov. 9.		
South Duck Zone (1)	Oct. 1-Oct. 11 & Oct. 21-Nov. 18.		
Geese:		5	10
Canada(3):			
Northeast Goose Zone(1):			
Brown County	Oct. 1-Oct. 12. Dec. 1-Dec. 31.	1 2	2 4
Remainder of Northeast Zone	Oct. 1-Oct. 12.	1	2
Southeast Goose Zone (1):			
Horicon and Central Zones (1) (3):	Oct. 1-Nov. 9 & Dec. 1-Dec. 10.		
		Tag system - See State Regulations	
Theresa Sub- zone(1) (3)	Oct. 1-Nov. 19.		
Rock Prairie Zone (1)	Oct. 21-Nov. 1 & Nov. 7-Dec. 6.	1	2
Remainder of Southeast Zone	Oct. 21-Nov. 1.	1	2
Northwest Goose Zone(1):			
Mississippi River Zone(1)	Oct. 1-Nov. 15. Nov. 25-Dec. 18.	1 2	2 4
Remainder of Northwest Zone	Oct. 1-Oct. 20.	1	2
Southwest Goose Zone (1):			
Mississippi River Zone (1)	Oct. 1-Oct. 11 & Oct. 21-Nov. 24. Nov. 25-Dec. 18.	1 2	2 4
Remainder of Southwest Zone	Oct. 1-Oct. 11 & Oct. 21-Oct. 29.	1	2
Other geese:			
North Duck Zone(1):			
Brown County	Oct. 1-Nov. 9 & Dec. 1-Dec. 30.		
Mississippi River Zone (1)	Oct. 1-Nov. 15 & Nov. 25-Dec. 18.		
Remainder of North Zone	Oct. 1-Nov. 9.		
South Duck Zone (1):			
Rock Prairie Zone (1)	Oct. 1-Oct. 11 & Oct. 21-Dec. 6.		
Mississippi River Zone (1)	Oct. 1-Oct. 11 & Oct. 21-Dec. 18.		
Remainder of South Zone	Oct. 1-Oct. 11 & Oct. 21-Nov. 18.		

Limits include no more than:

White-fronted	2	4
Snow (including blue) and brant	5	10

The point values assigned to the species and sexes are as follows:

Mississippi Flyway

100 points	70 points	20 points	35 points
Black duck	Wood duck	Blue-winged teal	Male mallard,
Female mallard	Redhead	Green-winged teal	Pintail, and
	Hooded merganser	Cinnamon teal	all other
		Wigeon	species of
		Shoveler	ducks.
		Gadwall	
		Scaup	
		Mergansers (except	
		hooded).	

Note: All areas of the Flyway are closed to canvasback hunting.

(1) Described in the September 18, 1987, Federal Register (52 FR 35248) and/or the State Regulations.

(2) Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

(3) Harvests of Canada geese will be limited as follows:

Illinois:

Southern Illinois Quota Zone - 26,300
Rend Lake Quota Zone - 7,900
Remainder of State - 18,300

Kentucky:

West Kentucky Zone:
Ballard Subzone - 10,400
Henderson-Union Subzone - 3,300
Remainder of West Kentucky Zone - 2,800

Wisconsin:

Horicon and Central Zones - 32,500
Remainder of State - 17,000

Missouri: Swan Lake Zone - 10,000

Minnesota: Lac qui Parle Quota Zone - 4,000

Michigan:

Superior Counties Goose Management Area - 6,500
Allegan County Goose Management Area - 3,000
Muskegon Wastewater Goose Management Area - 500
Saginaw County Goose Management Area - 4,500
Remainder of State - 43,500

Tennessee:

Northwest Zone:
Reelfoot Subzone - 5,000
Remainder of Northwest Zone - 2,200

Indiana:

Posey County - 4,700
Remainder of State - 11,300

When it has been determined that the quota of Canada geese allotted to the Southern Illinois Quota Zone, the Rend Lake Quota Zone in Illinois, the Swan Lake Zone in Missouri, Posey County in Indiana, the Lac qui Parle Quota Zone in Minnesota, the Ballard and Henderson-Union Subzones in Kentucky, the Reelfoot Subzone in Tennessee, and the Superior Counties, Allegan County, Muskegon Wastewater and Saginaw County Goose Management Areas in Michigan, will have been filled, the season for taking Canada geese in the respective area

will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

(4) A special hunting season for scaup only is prescribed in those areas which are described, delineated and designated in the hunting regulations of the State.

(5) The daily bag and possession limit for purple gallinules and common moorhens is singly or in the aggregate of the two species.

(6) In Kentucky's Western Zone, the season for snow and white-fronted geese and brant will close with the Canada goose season if the Canada goose season closes prior to January 17, 1988.

CENTRAL FLYWAY

The Central Flyway consists of Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Geese include all species of geese and brant.

Dark Geese include Canada geese, white-fronted geese, and "black" brant.

Light Geese include all other species.

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted--Check State regulations.

Canvasbacks -- All areas of the Flyway are closed to canvasback hunting.

Mergansers -- All mergansers are to be included within the daily bag and possession limits under conventional and point system regulations.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

	<u>Limits</u> Season Dates	Bag	Possession
<u>Colorado</u>			
Ducks	Oct. 3-Oct. 17 & Oct. 31-Nov. 29 & Dec. 12-Jan. 2.		Point system.
Coots	Same as for ducks.	15	30
<u>Geese:</u>			
North-Central Unit(1):			
West of I-25	Oct. 3-Oct. 10 & Oct. 24-Jan. 10.	4	8
Including no more than:			
Dark geese		2	4
Remainder of North			
Central Unit	Oct. 24-Jan. 10.	4	8
Including no more than:			
Dark geese		2	4
South Park Unit (1)	Oct. 3-Oct. 10 & Oct. 24-Dec. 31.	2	4
San Luis Valley Unit(1) (special permit)	Oct. 31-Dec. 31.		2 geese per season.
North Park Unit(1) (special permit)	Oct. 3-Oct. 10.		1 goose per season.
Remainder of State in Central Flyway	Oct. 31-Jan. 16.	4	8

Including no more than:			
Dark geese		2	4
<u>Kansas</u>			
Ducks:			Point system.
High Plains Area (west of U.S. 283)	Oct. 10-Oct. 30 & Nov. 7-Dec. 6 & Dec. 19-Jan. 3.		
Low Plains Area (east of U.S. 283)	Oct. 24-Nov. 9 & Nov. 14-Dec. 6 & Dec. 24-Jan. 3.		
Coots	Same as for ducks.	15	30
Dark geese (2) including no more than:	Oct. 31-Jan. 10.	2	4
White-fronted	Oct. 31-Jan. 10.	1	2
Canada	Nov. 30-Jan. 10.	1	2
Light geese			
Unit 1 (east of U.S. 75 and north of I-70)	Nov. 14-Dec. 9 & Dec. 17-Feb. 14.	5	10
Unit 2 (remainder of State)	Nov. 7-Jan. 3 & Jan. 9-Feb. 5.	5	10
<u>Montana</u>			
Ducks			Point system
Zone 1 (3)	Oct. 3-Nov. 22 & Dec. 12-Dec. 27.		
Zone 2 (3)	Oct. 3-Oct. 11 & Oct. 31-Dec. 27.		
Coots	Same as for ducks.	15	30
Geese:	Oct. 3-Jan. 3.		
Limits:			
Sheridan County:			
Dark geese		2	4
Light geese		3	6
Remainder of State in Central Flyway:			
Dark geese		3	6
Light geese		3	6
Tundra swans	Oct. 3-Jan. 3.		Only by permit; 1 swan per season
<u>Nebraska</u>			
Ducks:			Point system.
High Plains Area	Oct. 10-Nov. 29 & Dec. 19-Jan. 3.		
Low Plains Area			
Zones 1 and 2 (4)	Oct. 17-Oct. 25 & Oct. 31-Dec. 11.		
Zones 3 and 4 (4)	Oct. 10-Nov. 29.		
Coots	Same as for ducks.	15	30
Dark geese			
North Unit (5)	Oct. 3-Dec. 20.	2	4
Including no more than:			
White-fronted	Oct. 3-Dec. 20.	1	2
Canada	Oct. 3-Nov. 13.	1	2
East Unit (5)	Oct. 3-Dec. 13.	2	4
Including no more than:			
White-fronted	Oct. 3-Dec. 13.	1	2
Canada	Nov. 23-Dec. 13.	1(6)	2(6)
Central Unit (5)	Oct. 24-Jan. 3.	2	4
Including no more than:			
White-fronted	Oct. 24-Jan. 3.	1	2
Canada	Nov. 23-Jan. 3.	1	2
Panhandle Unit (5)	Nov. 10-Jan. 3.	2	4
Including no more than:			
White-fronted	Nov. 10-Jan. 3.	1	2
Canada	Nov. 23-Jan. 3.	1	2

Sandhills Unit(5)	Nov. 1-Dec. 31.	Only by permit - 1 Canada goose per season.	
Light Geese	Oct. 3-Dec. 27.	5	10

New Mexico

Ducks:		Point system.	
Zone 1 (7)	Oct. 10-Dec. 15.		
Zone 2 (7)	Nov. 12-Jan. 17.		
Coots	Oct. 10-Dec. 19.	15	30
Common Moorhens	Oct. 10-Dec. 19.	5	10
Geese:			
Dark geese (8)	Oct. 17-Jan. 17.	2	4
Light geese:			
Rio Grande Valley Unit(9)	Nov. 1-Jan. 10 & Jan. 23-Feb. 27.	5	20
Remainder of State in Central Flyway	Nov. 28-Feb. 27.	5	10

North Dakota

Ducks:	Oct. 3-Nov. 22.	4	8
Including no more than:			
Mallards (no more than 1 female mallard daily and 1 in possession)		3	6
Pintails		3	6
Redheads		1	2
Wood ducks		2	4
Hooded Mergansers		1	2
Additional blue- winged teal	Oct. 3-Oct. 11.	2(9)	4(9)
Additional scaup	Oct. 24-Nov. 22.	2(9)	4(9)
Coots	Same as for ducks.	15	30
Dark geese	Oct. 3-Nov. 15.	2	4
Including no more than:			
Canada	Oct. 3-Nov. 1.	1	2
Light geese	Oct. 3-Nov. 29.	5	10

Oklahoma

Ducks:		Point system.	
High Plains Area(10)	Oct. 10-Nov. 29 & Dec. 12-Dec. 27.		
Low Plains			
Zone 1 (10)	Oct. 24-Nov. 20 & Dec. 5-Dec. 27.		
Zone 2 (10)	Nov. 7-Nov. 20 & Dec. 12-Jan. 17.		
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(16)	30(16)
Dark geese(17)	Nov. 7-Jan. 17.	2	4
including no more than:			
White-fronted	Nov. 7-Jan. 17.	1	2
Light geese	Nov. 7-Jan. 31.	5	10

South Dakota

Ducks:		Point system	
High Plains Area (11)	Oct. 3-Nov. 22 & Dec. 19-Jan. 3.		
Low Plains Area			
North Zone (11)	Oct. 3-Nov. 22.		
South Zone (11)	Oct. 17-Dec. 6.		
Coots	Same as for ducks.	15	30
Dark geese			
Missouri River Unit(12)	Oct. 3-Dec. 20.	2	4
including no more than:			
Canada	Oct. 3-Nov. 13.	1	2
White-fronted	Oct. 3-Dec. 20.	1	2
Remainder of State	Oct. 3-Dec. 13.	2	4
Including no more than:			

Canada	Oct. 3-Dec. 13.	1	2
White-fronted	Oct. 3-Dec. 13.	1	2
Light geese	Oct. 3-Dec. 27.	5	10

Texas

Ducks (except masked duck):		Point system.	
High Plains Area (13)	Oct. 31-Nov. 8 & Nov. 21-Jan. 17.		
Remainder of State	Oct. 31-Nov. 4 & Nov. 21-Nov. 29 & Dec. 12-Jan. 17.		
Masked duck	Closed season.	-	-
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(16)	30(16)
Geese:			
East of U.S. Highway 81:			
Dark geese(14)	Oct. 31-Dec. 4 & Dec. 12-Jan. 17.	2	4
Including no more than:			
Canada		1	2
White-fronted		1	2
Light geese	Oct. 31-Jan. 24.	5	10
West of U.S. Highway 81:			
Geese:	Oct. 17-Jan. 17.	5	10
Including no more than:			
Dark geese		2	4

Wyoming

Ducks and coots		Point system.	
Zone 1 (15)	Oct. 3-Nov. 1 & Nov. 21-Dec. 27.		
Zone 2 (15)	Oct. 10-Nov. 29 & Dec. 12-Dec. 27.		
Zone 3 (15)	Oct. 3-Nov. 22 & Dec. 12-Dec. 27.		
Zone 4 (15)	Oct. 3-Nov. 1 & Nov. 21-Dec. 27.		
Geese:		2	4
Zone 1 (15)	Oct. 3-Dec. 31.		
Zone 2 (15)	Nov. 7-Jan. 10.		
Zone 3 (15)	Oct. 3-Dec. 31.		
Zone 4 (15)	Oct. 3-Jan. 3.		

Point system - Ducks, mergansers and coots. The Central Flyway States selecting the point system bag limits on designated species are listed in the table above.

The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have legally been taken in 2 days. The shooting (including hawking) hours are one-half hour before sunrise until sunset daily unless otherwise indicated.

The point values assigned to the species and sexes are as follows:

Central Flyway

100 points	70 points	20 points	35 points
Female mallard	Wood duck	Blue-winged teal	Male mallard,
Mottled duck	Redhead	Green-winged teal	Pintail, and
Black duck	Hooded merganser	Cinnamon teal	all other
	Texas only:	Shoveler	species of
	Black bellied	Gadwall	ducks*
	and fulvous	Wigeon	
	whistling (tree)	Scaup	
	ducks	Merganser (except	
		hooded).	

* In Texas only, there is no open season on the Masked duck.

Note: All areas of the Flyway are closed to canvasback hunting.

(1) North Central Unit: Bounded by the Continental Divide, the northern State line, and highways US-85 to I-76, I-76 to I-25, I-25 to I-70, and I-70 to the Continental Divide. South Park Unit: Chaffee, Fremont, Lake, Park, and Teller Counties. San Luis Valley Unit: Alamosa, Conejos, Costilla, and Rio Grande Counties and the portions of Hinsdale, Mineral, and Saguache Counties east of the Continental Divide. North Park Unit: Jackson County.

(2) In Kansas, exceptions to the dark goose season are as follows: (a) Marais des Cygnes Valley Unit - Season dates: December 19, 1987 through January 10, 1988 - Dark goose permits issued by the Kansas Department of Wildlife and Parks required. One hundred (100) permits are available with one (1) dark goose per permit and one (1) permit per individual. Leg tagging of dark geese is required in this area. The area is bounded by the Missouri State Line to K-68, K-68 to U.S.-169, U.S.-169 to K-7, K-7 to K-31, K-31 to U.S.-69, U.S.-69 to K-239, K-239 to the Missouri State Line; (b) South Flint Hills Unit - Dark geese may not be hunted in an area southwest of Emporia bounded by Highways K-57 to U.S.-75, U.S.-75 to K-39, K-39 to K-96, K-96 to U.S.-77, U.S.-77 to U.S.-50, U.S.-50 to K-57; (c) Central Flint Hills Unit - Dark geese may not be hunted in an area southwest of Topeka bounded by Highways U.S.-75 to Interstate 35, Interstate 35 to U.S.-50, U.S.-50 to U.S.-77, U.S.-77 to Interstate 70, Interstate 70 to U.S.-75; and (d) Strip Pits Unit - Dark geese may not be hunted in an area of southeast Kansas bounded by the Missouri State Line to U.S.-160, U.S.-160 to U.S.-69, U.S.-69 to K-57, K-57 to K-3, K-3 to K-146, K-146 to U.S.-59, U.S.-59 to K-47, K-47 to U.S.-169, U.S.-169 to U.S.-160, U.S.-160 to U.S.-59, U.S.-59 to the Oklahoma State Line, and the Oklahoma State Line to the Missouri State Line.

(3) Zone 1: The Central Flyway portion, except Zone 2, of Montana. Zone 2: The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure, and Wibaux.

(4) High Plains: West of Highways US-183 and US-20 from the northern State line to Ainsworth, N-7 and N-91 to Dunning, N-2 to Merna, N-70 to Arnold, N-40 and N-47 and N-47 through Gothenburg to N-23, N-23 to Elwood, and US-283 to the southern State line. Zone 1: Keya Paha (east of US-183) and Boyd Counties including all waters of the Niobrara River. Zone 2: Bounded by Highways and political boundaries starting at the State line near Falls City, US-73 north to N-67; north through Nemaha to US-73-75; north to US-34; west to the Alvo Road; north to US-6; northeast to N-63; north and west to US-77; north to N-92; west to US-81; south to N-66; west to N-14; south to I-80; west to US-34; west to N-10; south to the State line; west to US-283; north to N-23; west to N-47; north to US-30; east to N-14; north to N-52; northwesterly to N-91; west to US-281; north to and including Wheeler, Garfield, and Loup (east US-183) Counties; east on N-70 from Wheeler County to N-14; south to N-39; southeast to N-22; east to US-81; southeast to US-30; east to US-73; north to N-51; east to the State line; and south and west along the State line to US-73. Zone 3: The area, excluding Zone 1, north of Zone 2. Zone 4: The area south of Zone 2.

(5) North Unit: Boyd (west of US-81), Keya Paha (east of US-183), and Knox Counties. East Unit: The area, excluding the North Unit, east of highways US-183 and US-20 from the northern State line to Atkinson, N-11 to Burwell, N-91 to near Taylor, US-183 to Ansley, N-2 to Grand Island, and US-281 to the southern State line. Panhandle Unit: South and west of the northern boundaries of Scotts Bluff, Morrill, and Garden Counties and highways N-2 from Garden County to N-61, N-61 to Grant, and N-23 to the State line. Central Unit: The remainder of the State.

(6) Only 1 Canada goose and 1 white-fronted goose are allowed each day for the entire season in Dodge, Platte and Colfax Counties; in those parts of Butler, Saunders and Polk Counties north of Nebr. 92; and Merrick County along the Platte River where it borders Polk County.

(7) New Mexico: Zone 1: North of highways I-40 and US-54. Zone 2: South of highways I-40 and US-54.

(8) Dark geese may not be hunted in Bernalillo, Sandoval, Sierra, Socorro, and Valencia Counties.

(9) The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

(10) High Plains: Beaver, Cimarron, and Texas Counties. Zone 1: Northwestern Oklahoma, except the Panhandle, bounded by highways OK-33 from the western State line to Roll, OK-47 to US-183, US-183 to Clinton, I-40 to US-177, US-177 to Perkins, OK-33 to Guthrie, I-35 to US-60, US-60 to US-64, US-64 to Nash, and OK-132 to the northern State line. Zone 2: The remainder of the State south and east of Zone 1.

(11) High Plains: West of highways and political boundaries starting at the State line north of Herreid; US-83 and US-14 to Blunt, Blunt-Canning Road to SD-34, a line across the Missouri River to the northwestern corner of the Lower Brule Indian Reservation, the Reservation Boundary and Lyman County Road through Presho to I-90, and US-183 to the southern State line. North Zone: East of the High Plains except the South Zone. South Zone: Bon Homme County (south of S.D. Highway 50), Yankton County (south of S.D. Highway 50), and Clay County (south of S.D. Highway 50); Charles Mix County (south and west of a line formed by S.D. Highway 50 from Douglas County to Geddes, Highways CFAS 6198 and CFAS 6516 to Lake Andes, and S.D. Highway 50 to Bon Homme County); Gregory County; and Union County (south and west of S.D. Highway 50 and Interstate Highway 29).

(12) Missouri River Unit: The Counties of Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson (east of highway SD-65), Dewey, Gregory, Haakon (north of Kirley Road and part of Plum Creek), Hughes, Hyde, Lyman (north and east of highways I-90 and US-183), Potter, Stanley, Sully, Tripp (east of highway US-183), Walworth, and Yankton (west of highway US-81).

(13) High Plains: West of highways US-183 from the northern State line to Vernon, US-283 to Albany, T-6 and T-351 to Abilene, US-277 to Del Rio, and the Del Rio International Toll Bridge access road.

(14) In Texas, the season on Canada geese is closed in Anderson and Henderson Counties.

(15) Zone 1: The Counties of Campbell, Converse, Crook, Johnson, Natrona, Niobrara, Sheridan, and Weston. Zone 2: The Counties of Goshen, Laramie, and Platte. Zone 3: The Counties of Albany and Carbon. Zone 4: The Counties of Big Horn, Fremont, Hot Springs, Park and Washakie. Goose management units, respectively, coincide with duck zones.

(16) The daily bag and possession limit of purple gallinules and common moorhens is singly or in the aggregate of the two species.

(17) See State regulations for areas closed to Canada goose hunting except by State permit.

PACIFIC FLYWAY

The Pacific Flyway includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily, except as otherwise restricted--Check State regulations.

Aleutian Canada Geese: The season is closed on Aleutian Canada geese throughout the Flyway.

White Geese and Dark Geese: Unless otherwise noted, seasons and limits for white geese are for snow, including blue, and Ross' geese, either singly or in the aggregate; and seasons and limits for dark geese are for Canada and white-fronted geese, brant, and all other species of geese, either singly or in the aggregate, except in

Washington, Oregon, and California where there are separate seasons and limits on brant.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATION OF GEOGRAPHICAL AREAS OR ZONES WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

	Season Dates	Limits	
		Bag	Possession
<u>Arizona</u>			
Ducks	Oct. 9-Nov. 29 & Dec. 15-Jan. 10.	See footnote (1).	
Geese:	Nov. 15-Jan. 17.	6	6
Including no more than:			
Dark (no more than 2 Canada geese)		3	3
White		3	3
Coots and common moorhens (singly or in the aggregate)			
Common Snipe	Same as for ducks.	25	25
Sandhill cranes (only in Game Management Units 30 A, 30B, 31, and 32)	Nov. 6-Nov. 8 & Nov. 10-Nov. 12 & Nov. 14-Nov. 16 & Nov. 18-Nov. 20.	Only by permit; 2 cranes per season.	
<u>California (2)</u>			
Ducks:			
Northeastern Zone (3)	Oct. 10-Dec. 27.	See footnote (1)	
Colorado River Zone (3)	Oct. 9-Nov. 29 & Dec. 15-Jan. 10.	See footnote (1)	
Southern Zone (3)	Oct. 17-Nov. 29 & Dec. 7-Jan. 10.	See footnote (1)	
Balance of State Zone(3)	Oct. 24-Jan. 10.	See footnote (1)	
Geese (except cackling Canada, Aleutian Canada and brant):			
Northeastern Zone (3)	Oct. 10-Jan. 10.	3	6
Including no more than:			
Canada geese (except Aleutian and Cackling)		2	4
White-fronted geese (except that the season shall be Oct. 10-Nov. 1).		1	2
White geese		3	6
Colorado River Zone(3)	Nov. 15-Jan. 17.	6	6
Including no more than:			
Dark (but no more than 2 Canada geese) (4)		3	3
White		3	3
Southern Zone (3)	Oct. 17-Jan. 17.	6	6
Including no more than:			
Dark (except that Canada geese shall not exceed 2 in the daily bag and pos- session limits; but in that portion of District 22 within the Southern Zone,			

Canada geese may not exceed 1 in daily bag and 2 in possession; and the season on Canada geese shall be Oct. 24-Jan. 17.) (4)		3	3
White		3	3
Balance-of-the-State Zone(3)	Oct. 31-Jan. 17.	3	3
Including no more than: Dark (4)(5):		1	1
Except that the season on Canada geese shall be:			
Counties of Del Norte and Humboldt	Closed.	-	-
Sacramento Valley Area (3)	Closed.		
San Joaquin Valley Area (3)	Oct. 31-Nov. 23.		
Except that the season on white-fronted geese shall be:			
Sacramento Valley Area (3)	Oct. 31-Jan. 3.		
Remainder of Zone White	Oct. 31-Nov. 30. Oct. 31-Jan. 3.	3	3
Cackling Canada geese and Aleutian Canada geese	Closed.	-	-
Brant	Nov. 1-Nov. 30.	2	4
Coots and common moorhens, singly or in the aggregate.	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
<u>Colorado</u>			
Ducks	Oct. 3-Oct. 16 & Nov. 7-Jan. 10.	See footnote (1)	
Geese:			
Brown's Park, Moffat County	Oct. 24-Dec. 6.	1	2
Delta and Montrose Counties	Nov. 14-Jan. 3.	Only by permit; 2 geese per day; 3 per season.	
Mesa County	Nov. 14-Jan. 3.	Only by permit; 2 4 6 geese per season.	
Dolores, Gunnison, LaPlata and Montezuma Counties	Closed.	-	-
Remainder of State in Pacific Flyway	Oct. 3-Oct. 16 & Oct. 24-Jan. 3.	2	4
Coots	Same as for ducks.	25	25
Common snipe	Sept. 1-Dec. 2.	8	16
<u>Idaho</u>			
Ducks			
Zone 1 (3)	Oct. 10-Dec. 27.	See footnote (1)	
Zone 2 (3)	Oct. 10-Nov. 29 & Dec. 7-Jan. 3.	See footnote (1)	
Geese:			
Goose Area 1 (3)(6) including no more than: Dark	Oct. 12-Jan. 3.	2	4
Goose Area 2 (3) including no more than: Dark	Oct. 24-Jan. 3	2	4

Goose Area 3 (3) including no more than: Dark	Oct. 12-Dec. 6.	2	4
Goose Area 4 (3) including no more than: Dark	Oct. 12-Jan. 3.		
	Oct. 12-Nov. 8.	1	1
	Nov. 9-Dec. 13.	2	4
	Dec. 14-Jan. 3.	1	1
Goose Area 5 (3) including no more than: Dark	Oct. 10-Jan. 3.	2	4
Coots	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
<u>Montana</u>			
Ducks	Oct. 3-Dec. 20.	See footnote (1)	
Geese: (7)			
East of the Continental Divide	Oct. 3-Jan. 3.	6	6
Including no more than: Dark		3	6
White		3	6
West of the Continental Divide	Oct. 3-Jan. 3.	5	6
Including no more than: Dark		2	2
White		3	6
Coots	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Whistling swans, only in Teton and Cascade Counties	Oct. 3-Dec. 20.	Only by permit; 1 swan per season.	
<u>Nevada</u>			
Ducks:			
Clark County	Oct. 24-Jan. 10.	See footnote (1)	
Remainder of State	Oct. 17-Jan. 3.	See footnote (1)	
Dark geese:			
Clark County	Nov. 28-Jan. 17.	2	2
White River Valley in Nye County, and Pahranagate Valley in Lincoln County	Dec. 5-Jan. 17.	2	2
Remainder of State	Oct. 17-Jan. 17.	2	4
White geese:			
Clark County	Nov. 28-Jan. 17.	3	3
White River Valley in Nye County, and Pahranagate Valley in Lincoln County	Dec. 5-Jan. 15.	3	3
Ruby Valley in Elko and White Pine Counties	Closed.	-	-
Remainder of State	Oct. 17-Jan. 17.	3	3
Coots and common moorhens, singly or in the aggregate	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Whistling swans, only in Churchill, Lyon, and Pershing Counties)	Oct. 17-Jan. 3.	Only by permit; 1 swan per season	
<u>New Mexico</u>			
Ducks	Oct. 10-Oct. 25 & Nov. 11-Jan. 10.	See footnote (1)	

<u>Geese:</u>			
North of Interstate 40	Jan. 2-Jan. 17.	3 geese (not more than 2 dark) per season.	
South of Interstate 40	Oct. 24-Jan. 17.	6	6
Including no more than:			
Dark (no more than 2 Canada geese)		3	3
White		3	3
<u>Coots and common moorhens, singly or in the aggregate)</u>			
Common snipe	Same as for ducks. Sept. 1-Nov. 30.	25	25
		8	16

Oregon

<u>Ducks:</u>			
Entire State, except Morrow and Umatilla Counties	Oct. 17-Nov. 29 & Dec. 7-Jan. 10.	See footnote (1)	
Morrow and Umatilla Counties	Oct. 17-Jan. 10.	See footnote (1)	
<u>Geese (except cackling Canada, and Aleutian Canada):</u>			
Western Oregon(4) (8) (9)	Oct. 17-Jan. 17.	2	4
Eastern Oregon, except Baker, Malheur, Klamath, and Lake Counties	Oct. 17-Jan. 17.	6	6
Including no more than:			
Dark(4)		3	6
White		3	6
Baker and Malheur Counties(4)	Oct. 17-Jan. 3.	2	4
Klamath and Lake Counties		6	6
Including no more than:			
Dark (4), except the season on white-fronted geese does not open until Nov. 1.	Oct. 17-Jan. 17.	3	6
White	Oct. 17-Jan. 17.	3	6
Cackling and Aleutian Canada geese	Closed.	-	-
Brant	Dec. 26-Jan. 10.	only by permit;	
		2	4
Coots	Same as for ducks	25	25
Common snipe	Same as for ducks	8	16

Utah

<u>Ducks</u>			
	Oct. 3-Dec. 6 & Dec. 21-Jan. 3.	See footnote (1)	
<u>Geese:</u>			
General Season:	Oct. 10-Jan. 3.	5	6
Including no more than:			
Dark geese		2	4
White geese		3	6
<u>Special Seasons:</u>			
Daggett County east of U.S. Highway 191	Oct. 24-Dec. 6.		
Including no more than:			
Canada geese		1	2
Washington County	Oct. 17-Jan. 10.		
Including no more than:			
Canada geese		2	2
Emery County	See State Regulations.		
Coots	Same as for ducks.	25	25

Common snipe	Same as for ducks.	8	16
Tundra swans	Oct. 3-Dec. 6 & Dec. 21-Jan. 3.		
		Only by permit; 1 swan per season.	

Washington

Ducks:			
Eastern Washington(10)	Oct. 17-Jan. 10.	See footnote (1)	
Western Washington(10)	Oct. 17-Nov. 6 & Nov. 14-Jan. 10.	See footnote (1)	

Geese (except cackling
Canada Aleutian Canada
and brant)

Eastern Washington(10):			
Adams, Benton, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogon, Spokane, and Walla Walla Counties, and east of Satus Pass (Highway 97) in Klickitat County	Oct. 17-Jan. 10 (11).	3	6
Remainder of Eastern Washington (4)	Oct. 17-Jan. 10.	3	6
Western Washington(10):			
Island, Skagit, Snohomish and Whatcom Counties	Oct. 17-Jan. 1.	3	6
Clark, Cowlitz, Pacific and Whakiaukum Counties		See footnotes (4) & (12)	
Remainder of Western Washington (4)	Oct. 17-Jan. 17.	3	6
Cackling Canada geese and Aleutian Canada geese:	Closed.	-	-
Brant:			
Skagit and Whatcom Counties only.	Dec. 12, 13, 16, 17, 19, 20 and 23.	2	4
Coots	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16

Wyoming

Ducks and coots, singly or in the aggregate	Oct. 3-Dec. 20.	See footnote (1)	
Canada Geese	Oct. 3-Dec. 20.	3	6
Common snipe	Sept. 19-Dec. 20.	8	16

(1) Duck Limits. Basic daily bag and possession limits on ducks (including mergansers, and in Wyoming including coots) throughout the entire Flyway is 5, including no more than 4 mallards but only 1 female (hen) mallard, 4 pintails but only 1 female (hen) pintail and either 2 canvasbacks or 2 redheads or 1 of each. The possession limit is twice the daily limit. Additionally, the following restrictions apply to limits in Arizona and Idaho. In Arizona, the daily limit may include no more than either 1 female (hen) mallard or 1 Mexican-like duck, but not both; and not more than 2 female (hen) mallards or 2 Mexican-like ducks may be in possession. In Idaho, in the counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone, the daily bag and possession limits, each, may not include more than two wood ducks.

(2) In California, no hunting of ducks, coots, geese and brant is authorized in the following areas unless and until the State approves the nontoxic shot requirements and the Service subsequently publishes final frameworks for these areas: Butte, Colusa, Contra Costa, Glenn, Imperial, Merced, Sacramento, San Joaquin, Solano, Sutter, Yolo and Yuba Counties; and those portions of Siskiyou, Shasta, Sierra, Tehama, and Plumas Counties, and all of Lesser and Modoc Counties, bounded by the following line: Beginning at Interstate 5 at the Oregon border, southerly on Interstate 5 to State Highway 89, thence

southeasterly on State Highway 89 to State Highway 70, thence easterly on State Highway 70 to U.S. Highway 395, thence southerly on U.S. Highway 395 to the Nevada border.

(3) Zone/Area boundaries described in the September 18, 1987, Federal Register and/or State regulations.

(4) The season on cackling Canada geese and Aleutian Canada geese is closed.

(5) The dark goose limits may be expanded to 2 per day and 4 in possession provided they are Canada geese, except for cackling Canada and Aleutian-Canada geese for which the season is closed.

(6) The season on white geese is closed in Fremont and Teton Counties.

(7) In Montana, check State regulations for special seasons/exceptions in Freezeout Lake WMA; Canyon Ferry; Flathead; Deer Lodge County; Benton Lake; Missoula County; and Kleinschmidt Lake.

(8) Western Oregon consists of all counties west of the summit of the Cascades excluding Kalmath and Hood River Counties. Eastern Oregon consists of all counties east of the summit of the Cascades, including all of Kalmath and Hood River Counties. Those portions of Coos, Curry, Douglas and Lane Counties lying west of U.S. Highway 101, that portion of western Oregon north of Highway 126 and west of Interstate 5 are closed to all goose hunting, except for a special Northwest Oregon permit goose hunt.

(9) Northwest Oregon Special Permit Goose Season - November 14-November 29 and December 7-January 17 on Sauvie Island Wildlife Area (excluding North Unit and Columbia River Beaches), Private lands of Sauvie Island (including Scappoose Flat), Ankeny NWR, Private lands adjacent to William L. Finley NWR, and Private lands adjacent to Baskett Slough NWR. See State regulations for specific places, times, days and other conditions of the permit season.

(10) Eastern Washington includes all areas lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County. Western Washington includes all areas lying to the west of Eastern Washington.

(11) Geese may be hunted only on Saturdays, Sundays, and Wednesdays, and on November 11, 26 and 27, and December 25 and January 1 in Adams, Benton, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties and east of Satus Pass (U.S. Highway 97) in Klickitat County. Geese may be hunted every day during January 11-17 in Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima Counties.

(12) The hunting season for all geese except Canada geese in Clark, Cowlitz, Pacific and Whakiam Counties is October 10 through January 17; 3 geese may be taken daily and 6 may be in possession. The Canada goose season is closed in Clark, Cowlitz, Pacific and Whakiam Counties except in the following areas: (a) in Clark and Cowlitz Counties all lands south of the Kalama grain elevator in Cowlitz County and west of Interstate 5 in Clark and Cowlitz Counties, and (b) in Pacific County all lands west of Highway 101, Highway 4 or Highway 401. Canada goose hunting in these two areas is by permit only. See State regulations for times, days and specific conditions of the permit hunts.

4. Section 20.106 is revised to read as follows:

20.106 Seasons, limits, and shooting hours for sandhill cranes.

Central Flyway: Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of 3 and a possession limit of 6 cranes (unless otherwise noted), and with shooting hours from one-half hour before sunrise until sunset (unless otherwise noted) in the following areas for the dates indicated:

(a) In Colorado (the Central Flyway portion except the San Luis Valley and North Park) the inclusive dates are October 3 through November 29, 1987.

(b) In New Mexico (a) in the counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, the inclusive dates for the regular season are October 24, 1987, through January 24, 1988; (b) in the Middle Rio Grande Valley Hunt Area (described in State regulations) the inclusive dates for the two experimental seasons are October 17 through October 24, 1987, and October 25 through October 31, 1987. Hunting in the experimental seasons is by State permit only, the daily bag limit is 3 sandhill cranes and the seasonal bag limit is 9, and shooting hours are sunrise to sunset.

(c) In Oklahoma (that portion west of I-35) the inclusive dates are October 10 through November 20, 1987, and November 28, 1987 through January 17, 1988.

(d) In Texas, in Zone A the inclusive dates are November 14, 1987, through February 14, 1988. In Zone B the inclusive dates are November 28, 1987, through February 7, 1988. In Zone C the inclusive dates are January 2, 1988, through February 7, 1988. In the remainder of the State, the season is closed. See State regulations for description of zones.

(e) In North Dakota, in Zone 1 (the area east of a line starting on the east shore of Lake Oahe at the South Dakota border, then north on this shore to Bismarck, then north on U.S. Highway 83 to the north shore of Lake Sakakawea, then west along the north shore of Lake Sakakawea to ND No. 23, then east on ND No. 23 to ND No. 8, then north on ND No. 8 to the Canadian line; and west of a line starting where ND No. 14 enters Canada, then south on ND No. 14 to U.S. Highway 83, then south on U.S. Highway 83 to South Dakota) the inclusive dates are September 5 through November 1, 1987, in Zone 2 (that area east of Zone 1 and west of U.S. Highway 281) the inclusive dates are September 5 through October 2, 1987.

(f) In South Dakota, the inclusive season dates are September 26 through November 1, 1987.

(g) In Montana (the Central Flyway portion except that area south of I-90 and west of the Bighorn River), the inclusive dates are October 3 through November 29, 1987.

(h) In Wyoming, in Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties, the inclusive season dates are September 19 through November 15, 1987.

Each hunter participating in the regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.

Pacific Flyway

(a) In Arizona (within Game Management Units 30A, 30B, 31, and 32), the season dates are November 6-8, November 10-12, November 14-16 and November 18-20, 1987. Hunting will be by special permit to be issued by the State. Each permittee may take 2 sandhill cranes per season.

(b) In Wyoming's sandhill crane-Canada goose hunt areas: Hunting is by State permit only.

Bear River area in Lincoln County - the season dates are September 5 through September 7, 1987. Season limits are 2 sandhill cranes per hunter.

Riverton Boysen Unit in Fremont County - the season dates are September 12 through September 13, 1987, and September 19 through September 20, 1987. Season limits are 2 sandhill cranes per hunter.

Salt River (Star Valley) area in Lincoln County - the season dates are September 1 through September 7, 1987. Season limits are 2 sandhill cranes and 2 Canada geese per hunter.

Eden - Farson Agricultural Project in Sweetwater and Sublette Counties - the season dates are September 5 through September 7, 1987. Season limits are 3 sandhill cranes and 1 Canada goose per hunter.

5. Section 20.107 is revised as follows:

20.107 Seasons, limits, and shooting hours for tundra (whistling) swans.

Whistling swans may be taken only by State-issued permit. Permittees may take only one whistling swan per season. Successful permittees must immediately validate their harvest by that method required in State regulations. Shooting hours are from one-half before sunrise to sunset daily except as otherwise restricted--Check State hunting regulations. Seasons are:

Central Flyway: (a) In Montana, tundra swans may be hunted from October 3, 1987, through January 3, 1988.

Pacific Flyway: (a) In Montana, whistling swans may be hunted only in Teton and Cascade Counties from October 3 through December 20, 1987; (b) In Nevada, tundra swans may be hunted only in Churchill, Lyon and Pershing Counties from October 17, 1987, through January 3, 1988; (c) In Utah, tundra swans may be hunted from October 3 through December 6, 1987, and December 21, 1987, through January 3, 1988.

Atlantic Flyway: (a) In North Carolina, tundra swans may be hunted from November 2, 1987, through January 30, 1988.

6. Section 20.109 is revised to read as follows:

20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit..... 3 singly or in the aggregate.
 Possession limit..... 6 singly or in the aggregate.
 These limits apply during both regular hunting seasons and extended falconry seasons.
 Hawking hours: One-half hour before sunrise until sunset daily.
 CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Atlantic Flyway

Florida:

Mourning doves and white-winged doves..... Sept. 26-Dec. 4.
 Woodcock..... Oct. 24-Dec. 6.
 Snipe..... Nov. 1-Feb. 15.
 Ducks and coots..... Oct. 4-Nov. 21.
 Common moorhens and rails..... Sept. 26-Dec. 4.

Georgia

Ducks, coots, mergansers and
 gallinules/moorhens..... Oct. 3-Jan. 17.

Maine

Ducks, coots and mergansers

North Zone..... Nov. 10-Jan. 15.
 South Zone..... Oct. 15-Nov. 11 &
 Dec. 8-Jan. 15.

Maryland:

Mourning doves..... Sept. 1-Oct. 24 &
 Nov. 4-Dec. 26.

Rails..... Sept. 1-Dec. 16.

Woodcock..... Oct. 5-Jan. 19.

Snipe..... Oct. 1-Jan. 15.

Ducks, coots, and mergansers..... Oct. 6-Jan. 18.

Canada geese:

Delmarva Peninsula..... Oct. 17-Jan. 31.
 Remainder of State..... Oct. 6-Jan. 20.

Snow geese..... Oct. 17-Jan. 31.

Brant..... Oct. 6-Jan. 20.

Massachusetts:

All permitted ducks, geese,
 mergansers, and coots..... Oct. 12-Jan. 13.

New York:

Ducks, coots, and geese

Western Zone..... Oct. 2-Oct. 15.
 Southeastern Zone..... Oct. 1-Oct. 8 &
 Oct. 19-Oct. 24.
 Northeastern Zone..... Oct. 1-Oct. 4 &
 Oct. 19-Oct. 28.
 Long Island Zone..... Nov. 6-Nov. 19.

Pennsylvania:

Mourning doves..... Sept. 1-Dec. 12.

Ducks and geese..... Oct. 7-Jan. 16.

South Carolina:

Ducks, coots, and mergansers..... Oct. 4-Nov. 24 &
 Nov. 29-Dec. 13.

Virginia:

Woodcock and snipe..... Oct. 16-Jan. 30.

Mourning doves and rails..... Sept. 1-Nov. 30 &
 Dec. 19-Jan. 3.

Ducks, mergansers, coots, and geese..... Oct. 6-Jan. 18.

Mississippi FlywayIllinois:

Mourning doves, woodcock and rails..... Sept. 1-Dec. 16.

Snipe.....	Sept. 12-Dec. 29.
Teal.....	Sept. 5-Sept. 13.
Ducks, mergansers and coots.....	Oct. 3-Jan. 6.
<u>Indiana:</u>	
Mourning doves.....	Oct. 16-Nov. 5.
Woodcock.....	Sept. 1-Sept. 18.
Ducks, mergansers, and coots:	
North Zone.....	Oct. 3-Oct. 15 & Oct. 20-Oct. 29 & Dec. 5-Jan. 8.
South Zone.....	Oct. 3-Oct. 23 & Oct. 28-Nov. 20 & Dec. 27-Jan. 8.
Ohio River Zone.....	Oct. 4-Nov. 25 & Nov. 30-Dec. 4.
<u>Iowa:</u>	
Rails and snipe.....	Sept. 5-Dec. 5.
Woodcock.....	Sept. 19-Jan. 3.
Geese.....	Oct. 3-Jan. 17.
Ducks and coots.....	Sept. 19-Sept. 30 & Oct. 3-Jan. 5.
<u>Kentucky:</u>	
Ducks, mergansers, and coots.....	Nov. 1-Nov. 25 & Nov. 30-Dec. 11.
Rails and gallinules/moorhens.....	Nov. 1-Nov. 25.
Geese:	
Western Zone.....	Nov. 1-Dec. 11.
Eastern Zone.....	Nov. 1-Nov. 7.
<u>Michigan:</u>	
Snipe, rails and moorhens.....	Sept. 1-Dec. 16.
Ducks, mergansers, coots and geese.....	Oct. 4-Jan. 17.
<u>Minnesota:</u>	
Woodcock, snipe, and rails.....	Sept. 1-Dec. 16.
Ducks, mergansers, coots and geese.....	Oct. 3-Jan. 17.
<u>Mississippi:</u>	
Ducks, mergansers and coots.....	Oct. 31-Dec. 12.
Mourning doves.....	Sept. 28-Oct. 1 & Nov. 20-Dec. 13.
<u>Missouri:</u>	
Mourning doves.....	Sept. 1-Dec. 16.
Ducks, mergansers, coots, and geese.....	Oct. 6-Jan. 11.
<u>Wisconsin:</u>	
Rails, woodcock, snipe, and gallinules....	Sept. 1-Dec. 16.

Ducks, mergansers, and coots..... Oct. 1-Jan. 15.

Central Flyway

Colorado:

Ducks, mergansers, coots and geese..... Oct. 18-Oct. 30 &
Nov. 30-Dec. 11.

Montana:

Mourning doves..... Sept. 1-Oct. 12.

Snipe..... Oct. 3-Jan. 10.

Ducks and geese..... Oct. 3-Jan. 10.

Nebraska:

Ducks, mergansers, coots and geese..... Oct. 3-Jan. 17.

New Mexico: (1)

Mourning doves..... Sept. 1-Nov. 6 &
Nov. 22-Dec. 30.

Band-tailed pigeons..... Sept. 1-Nov. 30.

Sandhill cranes only in Chaves, Curry,
De Baca, Eddy, Lea, Quay, and Roosevelt
Counties..... Oct. 10-Jan. 24.

Ducks, coots and common moorhens..... Oct. 10-Jan. 15.

Canada and white-fronted geese..... Oct. 10-Jan. 17.

Snow, blue, and Ross' geese..... Nov. 14-Feb. 28.

Oklahoma:

Duck, coots and mergansers..... Oct. 10-Nov. 29 &
Dec. 2-Jan. 17.

Texas:

Mourning doves (statewide)..... Sept. 1-Nov. 30 &
Jan. 2-Jan. 17.

Rails and gallinules..... Sept. 1-Dec. 16.

White-winged doves..... Sept. 1-Nov. 30 &
Jan. 2-Jan. 17.

Ducks, geese and coots..... Oct. 20-Jan. 25.

Sandhill cranes (Zones A, B, and C)..... Nov. 1-Feb. 17.

Woodcock..... Nov. 1-Feb. 17.

Snipe..... Nov. 1-Feb. 17.

Wyoming:

Mourning doves..... Sept 1-Oct. 15.

Snipe and rails..... Sept. 19-Nov. 27.

Ducks, mergansers, coots, and geese (1)... Oct. 3-Jan. 3.

Pacific FlywayColorado:

Ducks, mergansers, coots, and geese..... Oct. 17-Nov. 6.

Idaho:

Mourning doves..... Sept. 1-Dec. 16.

Ducks, mergansers, coots, and snipe..... Oct. 3-Jan. 10.

Geese:

Pacific Population (2)..... Oct. 3-Jan. 3.

Rocky Mountain Population (2)..... Oct. 10-Jan. 3.

Montana:

Mourning doves..... Sept. 1-Oct. 12.

Snipe..... Oct. 3-Jan. 10.

Ducks and geese..... Oct. 3-Jan. 10.

New Mexico (1)

Mourning doves..... Sept. 1-Nov. 6 &
Nov. 22-Dec. 30.

Band-tailed pigeons..... Sept. 1-Nov. 30.

Ducks, coots and common moorhens..... Oct. 10-Jan 10.

Canada and white-fronted geese..... Oct. 10-Jan. 17.

Snow, blue and Ross' geese..... Oct. 7-Jan. 11.

Oregon

Mourning doves..... Sept. 1-Dec. 16.

Band-tailed pigeons..... Sept. 7-Dec. 16.

Ducks, coots, and snipe..... Oct. 3-Jan. 10.

Utah:

Ducks, geese, mergansers, coots,
and snipe..... Oct. 3-Jan. 10.

Washington:

Ducks, geese, mergansers, and coots..... Oct. 3-Jan. 10.

Wyoming

Mourning doves..... Sept. 1-Oct. 15

Snipe and rails..... Sept. 19-Nov. 27.

Ducks, mergansers, coots, and geese(1).... Oct. 3-Jan. 3.

(1) In Wyoming, the aggregate daily bag and possession limits of all ducks, mergansers, coots and geese are 2.

(2) In Idaho, the Pacific Population is that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. 93) to Challis, thence northerly on U.S. Highway 93 to

the Montana border; the Rocky Mountain Population is that portion of Idaho lying east of the line described above.

Note: See waterfowl season footnotes for descriptions of zones. For some States, the extended falconry season dates also include general season dates.

Date: September 23, 1987.

Susan Recce,

*Acting Assistant Secretary for Fish and
Wildlife and Parks.*

[FR Doc. 87-22367 Filed 9-28-87; 8:45 am]

BILLING CODE 4310-55-C

REGISTRATION
REQUIREMENTS
FOR
LOW-LEVEL RADIOACTIVE WASTE

Tuesday
September 29, 1987

Part III

**Department of
Energy**

**Low-Level Radioactive Waste; Procedures
for Submitting Documentation and
Guidelines for Evaluating State and
Regional Compliance with January 1,
1988, Milestone; Notice**

DEPARTMENT OF ENERGY

Low-Level Radioactive Waste; Procedures for Submitting Documentation and Guidelines for Evaluating State and Regional Compliance With the January 1, 1988, Milestone**AGENCY:** Office of Nuclear Energy, DOE.**ACTION:** Notice respecting compliance with the Low-Level Radioactive Waste Program, January 1, 1988, Milestone.

SUMMARY: The Low-Level Radioactive Waste Policy Amendments Act of 1985 establishes milestones for the development of new disposal facilities in compact regions and States that do not currently have operating disposal facilities. These non-sited compact regions and nonmember States must meet the milestones in order to receive rebates of a portion of the surcharges paid by their generators to the three States with operating disposal sites. Twenty-five percent of the applicable surcharges are received from these sited States and held in an escrow account maintained by the Department of Energy (DOE), which disburses the rebates upon determining that a State has complied with the applicable milestone.

Part I of this Notice discusses comments received on a March 5, 1987, *Federal Register* Notice of Inquiry (52 FR 6942), which contained draft Guidelines for DOE to determine the compliance of non-sited compact regions and nonmember States with the second milestone specified in section 5(e)(1)(B) of the Low-Level Radioactive Waste Policy Amendments Act of 1985, which occurs on January 1, 1988. Part II contains procedures for submitting information to DOE and DOE's guidelines for evaluating compliance with the January 1, 1988 milestone. The information collections contained in these procedures are covered under the Paperwork Reduction Act of 1980, as amended, and are approved by the Office of Management and Budget (OMB) under OMB control number 1910-0900.

EFFECTIVE DATE: September 29, 1987.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Smiley, Program Manager, Low-Level Waste Management Program, NE-24, U.S. Department of Energy, Washington, DC 20545, (301-353-4216).

SUPPLEMENTARY INFORMATION:**Background**

The Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99-240) (the Act), sets out milestones at section 5(e)(1) for the development of

new low-level radioactive waste disposal facilities in non-sited compact regions and nonmember States. Non-sited compact regions and nonmember States that are in compliance with a milestone received a rebate of 25 percent of the applicable surcharges paid by generators in their compact regions or States on waste disposed in the three State disposal facilities that are currently operating. Non-sited compact regions and nonmember States that are not in compliance with a milestone forfeit their potential rebate to the sited States in which the waste was disposed.

As trustee for the surcharge escrow account, DOE must determine whether each non-sited compact region and nonmember State is in compliance with the milestone and eligible for a rebate.

Non-sited compact regions and nonmember States must meet the requirements of section 5(e)(1)(B) of the Act in order to be found in compliance with the January 1, 1988, milestone. Section 5(e)(1)(B) of Pub. L. 99-240, states:

By January 1, 1988—

(i) each non-sited compact region shall identify the State in which its low-level radioactive waste disposal facility is to be located, or shall have selected the developer for such facility and the site to be developed, and each compact region or the State in which its low-level radioactive waste disposal facility is to be located shall develop a siting plan for such facility providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application and shall delegate authority to implement such plan;

(ii) each non-member State shall develop a siting plan providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application for a low-level radioactive waste disposal facility and shall delegate authority to implement such plan; and

(iii) the siting plan required pursuant to this paragraph shall include a description of the optimum way to attain operation of the low-level radioactive waste disposal facility involved, within the time period specified in the Act. Such plan shall include a description of the objectives and a sequence of deadlines for all entities to take action to implement such plan, including, to the extent practicable, an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning facility operation. Such plan shall also identify to the extent practicable, the process for (1) screening for broad siting areas; (2) identifying and evaluating specific candidate sites; and (3) characterizing the preferred site(s), completing all necessary environmental assessments, and preparing a license application for submission to the Nuclear Regulatory Commission or an Agreement State.

In Part II of this notice, DOE is issuing final procedures for non-sited compact regions and nonmember States to use in submitting milestone compliance documentation and guidelines for DOE to use in evaluating such documentation

Part I—Comments received on the Federal Register Notice of Inquiry

In order to solicit comments on the issues surrounding the submission and evaluation of milestone compliance documentation and also to solicit comments on DOE's procedures for administering the Surcharge Escrow Account, DOE published a Notice of Inquiry in the *Federal Register*, 52 FR 6942 (March 5, 1987), entitled, "Proposed Criteria for Complying with the Low-Level Waste Program, January 1, 1988, Milestone." Seventeen entities provided comments on (1) DOE's proposed criteria for evaluating compliance with the January 1, 1988, milestone, and (2) DOE's procedures for administering the Surcharge Escrow Account.

The milestone guidelines contained herein reflect the milestone requirements prescribed in the Act, and are responsive to the comments received from interested parties. The final DOE guidelines include the following changes from the earlier draft:

- The requirement that the siting plan include the signature(s) of the person(s) designated to approve the plan has been deleted.

- The proposed prescriptive list of siting plan elements implied by the Act has been deleted.

- Guidance on siting plan format and documentation requirements has been included.

- The requirement for demonstrating the "critical path" for the site development schedule has been deleted.

- Guidance has been added that the siting plan include a schedule that demonstrates operation of a low-level waste disposal facility within the time period specified in the Act.

- Guidance has been added that authority be legally delegated by January 1, 1988, to an entity or entities responsible for implementing the siting plan.

Comments submitted to DOE on the Notice of Inquiry and DOE's responses are discussed below.

A. Comments on Proposed Criteria for the January 1, 1988, Milestone

Fifteen entities commented on the proposed DOE compliance criteria. Most of these comments focused on the requirements for the siting plan. No comments were received concerning the requirement for designation of a host

State for a low-level waste disposal facility, or on the requirements for delegation of authority to implement the siting plan. The following summarizes these comments and DOE's resolution of the issues they raised:

1. One commentator felt that DOE should allow each non-sited compact region and nonmember State to establish its own protocol for submission of the siting plan because there may not be a person legally authorized by such State or compact region "to approve the siting plan." The final guidelines do not require the signature of a person authorized to approve the plan.

2. Nine commentators stated that the proposed guidelines exceeded the provisions of the Act in both the requirements for siting plan content and the level of detail required. The proposed guidelines included in the table of requirements certain tasks that DOE felt would necessarily have to be accomplished before a disposal facility could become operational. This list of implied tasks has been deleted from the final guidelines so as to permit States and compact regions to develop siting plans tailored to the circumstances prevailing in their particular jurisdictions.

3. Five commentators emphasized that DOE's siting plan requirements should be prefaced by the phrase, "to the extent practicable," wherever this phrase is included in the corresponding provision of the Act. The final guidelines incorporate this suggestion and DOE will evaluate documentation in these areas accordingly.

4. Four commentators expressed concern that DOE was requiring information on processes or tasks that would not be available by the January 1, 1988, milestone date. Neither the proposed nor final guidelines require that siting plans include the actual results or conclusions of tasks that have not yet been completed. The final guidelines do, however, require that siting plans include a general description of the processes that will lead to the development and operation of a disposal facility.

5. Eight commentators felt that the proposed guidelines required that siting plans adhere to a format that did not take into account the various approaches that would be taken by different entities preparing siting plans. However, the proposed guidelines did not specify any particular format. The final guidelines provide that no particular format is required as long as the documentation is complete. However, where a siting plan consists of a collection of documents, DOE has

provided that this documentation should be cross-referenced to the provisions of the Act to which it is responsive, in order to ensure that such documentation is complete.

6. Two commentators felt that the proposed criteria for siting plan content should have been promulgated in accordance with substantive rulemaking procedures. However, the final guidelines on siting plan content reflect specific provisions of the Act without adding any new substantive material; in this sense, they are only "interpretive" and need not be adopted in accordance with substantive rulemaking procedures.

7. Eight commentators expressed concern that development of a siting plan with the level of detail required in the proposed guidelines would divert resources from more important aspects of site development. The Act is clear in its requirement for a siting plan that includes detailed descriptions. The final guidelines reflect the specific requirements of the Act.

8. Two commentators suggested that the DOE criteria be similar to the compliance criteria issued by the sited States. The final DOE guidelines are similar in many respects to the guidelines issued by the sited States, but must reflect DOE's interpretation of the Act and its responsibilities thereunder.

9. Two commentators suggested deleting the recommendation in the proposed criteria that non-sited compact regions and nonmember States send a copy of the request for rebate to the Governors or their designees in the three sited States. In view of the fact that DOE has no authority to specify informational procedures to be applied by the sited States, this requirement has been deleted. The commentators also suggested that the final guidelines be revised to indicate that DOE would make compliance determinations independently of evaluations made by the sited States and sited compact regions. The guidelines have never provided that DOE and the sited States and compact regions would make joint determinations regarding milestone compliance. DOE may discuss issues involving milestone compliance with the sited States, but in every instance will make its own determinations.

10. At the July 27, 1987, quarterly meeting of the Low-Level Radioactive Waste Forum, DOE representatives discussed with representatives of States and compact regions the provision of the Act requiring siting plans to "describe the optimum way to attain operation of a (facility) within the time period specified in the Act." (Sec. 5)(e)(1)(B)(iii)) In interpreting this provision, DOE proposed that each

siting plan contain a schedule indicating compliance with the January 1, 1990, and the January 1, 1992, milestones, and that the siting plan indicate that the region or State would take title to the waste if a facility were not available by January 1, 1996.

Following these discussions DOE determined that 1996 could not serve as the deadline for the time period specified in the Act for operation of new disposal facilities. The various penalties and liabilities that are prescribed in the Act for the period between January 1, 1993, and January 1, 1996, were meant to reinforce the January 1, 1993, deadline, and were not intended to substitute 1996 as the deadline. Instead, 1996 applies to an entirely separate responsibility. On January 1, 1996, a State is required to assume liability for low-level radioactive waste generated within its borders if the State cannot provide for disposal of the waste or fails to take possession of the waste.

The final guidelines include an evaluation criterion that siting plans describe the optimum way to attain operation of a disposal facility by January 1, 1993. January 1, 1993, is identified at section 5(d)(2)(C) of the Act as the "deadline" for providing for the disposal of all low-level waste generated within a State or region. That date marks the end of the "interim access period," the period during which low-level waste generators in nonmember States and non-sited compact regions have conditional access to the three existing disposal sites. Moreover, Congress included in the Act provisions for penalizing regions and States that have not provided for the disposal of their waste by January 1, 1993. After January 1, 1993, regions and States that have not provided for such disposal will forfeit to generators in their regions surcharges in incremental proportions until such time as they can provide for disposal.

It also has been suggested that, by permitting a "Governor's certification", Congress implied that the region or State could manage its waste without a disposal facility after 1992 if it were unable to develop a disposal site by that date. By another amendment advancing the final date that a region or State could submit a disposal site license application from January 1, 1990, to January 1, 1992, some States have suggested that Congress implicitly abandoned January 1, 1993, as the deadline specified in the Act for the operation of new disposal facilities. Both the Governor's certification and the January 1, 1992, license application milestone are contingencies for regions

and States that cannot submit a license application for a disposal facility by January 1, 1990. DOE feels that these provisions were not meant as an invitation to delay submission of a license application beyond January 1, 1990. The Act recognizes that various regions or States might not attain operation of a disposal facility by January 1, 1993, but such an observation is not equivalent to a postponement of January 1, 1993, as the time period specified in the Act for establishment of new disposal facilities.

Therefore, DOE believes that the siting plan submitted in response to the January 1, 1988, milestone should describe the optimum way to attain by January 1, 1993, operation of a facility for the disposal of all low-level waste generated within a nonmember State or non-sited compact region.

DOE encourages each entity preparing a Siting Plan to develop a plan whose schedule, required under section 5(e)(3)(1)(B)(i) and (ii) of the Act, and sequence of deadlines required under section 5(e)(1)(B)(iii), reflect the optimum way to attain operation of a facility by January 1, 1993. DOE also encourages each entity to provide sufficient flexibility in the overall schedule and sequence of deadlines so that, notwithstanding any potential deviation, it will be able to attain operation of a facility by January 1, 1993.

In the event that the planned schedule and sequence of deadlines described in the Siting Plan for establishing a disposal facility may materially deviate from the optimum way to attain operation of a facility by January 1, 1993, then the Siting Plan should indicate why the planned schedule and sequence of deadlines may so deviate.

B. Comments on Administration of the Surcharge Escrow Account

1. Four commentors requested that DOE make rebate disbursements to a non-sited compact region or nonmember State as soon as that entity demonstrates compliance with a forthcoming milestone. One commenter stated that the current disbursement policy is "contrary to Congress' clear intent to encourage the expeditious development of new LLW sites." DOE feels that the Act clearly directs that rebates be made after the milestone date. If surcharge funds were disbursed before the milestone dates, a region which had earlier demonstrated compliance could retract the legal basis for the compliance determination, leaving no means for DOE to recover the funds for redistribution to the sited states in accordance with the Act. DOE provides quarterly reports to non-sited

compact regions and nonmember States regarding the amount of funds in their surcharge rebate accounts.

2. One commentor encouraged DOE to take a more active role in assuring that the sited States transfer all surcharges on a timely basis in order to avoid delays in disbursing rebate funds. DOE actively works with the sited States to establish appropriate procedures for payments into and disbursements from the escrow account and will continue to do so.

3. Two commentors requested that the deadline for transfer of surcharge funds by the sited States to DOE, announced in the *Federal Register* notice at 51 FR 23030 (June 24, 1986) dealing with the first milestone, be extended by five days to the 25th day of each month in order to allow the site operators and sited States additional time for processing and verification of the sources of the funds. DOE will continue its current policy of requiring these transfers by the 20th of each month in order to maximize investment earnings, and so that quarterly reports may be prepared and rebate disbursements can be made in as timely a manner as possible. DOE recognizes, however, that processing and verification procedures may sometimes delay submission of the surcharge funds.

II. Procedures for Submitting Documentation and for Evaluation Compliance with the January 1, 1988, milestone

A. Submitting Documentation

The Governor or authorized agent of a nonmember State or Executive Director, Chairman, or authorized agent of a non-sited compact region must send a request for rebate along with a complete siting plan by January 1, 1988, to: Manager, Low-Level Waste Management Program, U.S. Department of Energy, NE-24, Washington, DC 20545. The request should state that the nonmember State or nonsited compact region has met the requirements of the January 1, 1988, milestone as prescribed in section 5(e)(1)(B) of the Act. The request should include five copies of all applicable documentation. These copies are needed to permit the necessary reviews within the time limits of the program.

DOE encourages early submission of rebate requests and compliance documentation in order to facilitate the timely disbursement of surcharge funds from the Escrow Account following the January 1, 1988, milestone date.

B. Guidelines for Evaluation Milestone Compliance Documentation

1. Host State Identification.

Requirements of the Act: " * * * each non-sited compact region shall identify the State in which its low-level radioactive waste disposal facility is to be located, or shall have selected the developer for such facility and the site to be developed * * * (5)(e)(1)(B)(i))

DOE evaluation guideline: The Compact Commission Chairman, Executive Director, or designated agent of the non-sited compact region shall submit documentation to DOE that identifies (1) the State in which its low-level waste disposal facility will be located and the legal documents committing the developer to develop that site.

2. Development of a Siting Plan

Requirements of the Act: " * * * each compact region or the State in which its low-level radioactive waste disposal facility is to be located, shall develop a siting plan * * * (5)(e)(1)(B)(i)) " * * * each non-member State shall develop a siting plan * * * (5)(e)(1)(B)(ii))

DOE evaluation guideline:

a. The Commission Chairman, Executive Director, or designated agent of each non-sited compact region should submit one siting plan to DOE. The Governor or designated agent of each nonmember State should submit one siting plan to DOE.

b. Although there is no prescribed format or organizational layout for the siting plan, the plan should address all requirements prescribed in the Act at section 5(e)(1)(B).

c. Siting plans consisting of various documents, e.g., legislation, regulations, technical reports, supporting plans, should be accompanied by a summary which cross references the siting plan requirements cited in the Act to the corresponding siting plan documentation. A collection of documents not accompanied by such cross referencing will not be considered an acceptable siting plan.

3. Siting Plan Contents

a. Requirements of the Act: The siting plan shall " * * * provide detailed procedures and a schedule for establishing a facility location and preparing a facility license application * * * (5)(e)(1)(B)(i) and (ii))

DOE evaluation guideline:

The siting plan should include a schedule for filing a disposal site license application and provide detailed procedures as described in the guidelines below.

b. Requirements of the Act: "Such plan shall also identify, to the extent practicable, the process for (1) screening for broad siting areas; (2) identifying and evaluating specific candidate site(s); and (3) characterizing the preferred site(s), completing all necessary environmental assessments, and preparing a license application for submission to the Nuclear Regulatory Commission or an Agreement State." (5)(e)(1)(B)(i) and (iii))

DOE evaluation guideline:

The siting plan should describe, to the extent practicable, the process for completing each of the tasks leading to submission of the license application. These descriptions should indicate the objective of the tasks, identify the compact region or State entity(ies) that are or are expected to be responsible for ensuring completion of the tasks, provide general information on how each task will be completed, and provide a schedule for completion of each task.

c. Requirements of the Act: "The siting plan * * * shall include a description of the optimum way to attain operation of the low-level radioactive waste disposal facility involved, within the time period specified in this Act * * * (5)(e)(1)(B)(iii)) DOE evaluation guideline:

In the event that the planned schedule and sequence of deadlines described in the Siting Plan for establishing a disposal facility may materially deviate

from the optimum way to attain operation of a facility by January 1, 1993, then the Siting Plan should indicate why the planned schedule and sequence of deadlines may so deviate.

d. Requirements of the Act: "Such plan shall include a description of the objectives and a sequence of deadlines for all entities required to take action to implement such plan, including, to the extent practicable, an identification of the activities in which a delay in the start, or completion of such activities will cause a delay in beginning facility operation." (5)(e)(1)(B)(iii)).

DOE evaluation guidelines:

1. To the extent practicable, the siting plan should identify those scheduled tasks whose delay may lead to a delay in facility operation. The siting plan may identify such tasks by indicating critical deadlines for the completion of such tasks along with the scheduled date of completion.

2. If any tasks have been completed before the siting plan is prepared, the siting plan should indicate the date that the tasks were completed, briefly describe the significant accomplishments or conclusions of such tasks, and cite any published reports or documents that resulted from execution of the tasks.

4. Delegation of Authority

Requirements of the Act: Each (non-sited) compact region or the State in which its low-level radioactive waste

disposal facility is to be located "shall delegate authority to implement such plan * * * (5)(e)(1)(B)(i)) Each nonmember State * * * shall delegate authority to implement such plan * * * (5)(e)(1)(B)(ii)) DOE evaluation guideline:

a. The siting plan may demonstrate that authority has been delegated either by providing evidence that a lead entity has been legally delegated the authority for coordinating the implementation of the tasks described in the plan, or by providing evidence that each entity identified in the siting plan has the legal authority and responsibility to implement the task or tasks assigned to it in the siting plan.

b. If a non-sited compact region submits a siting plan that is to be implemented by the compact commission on behalf of such compact region, the compact commission should demonstrate that it has legal authority, in the State in which its low-level radioactive waste disposal facility is to be located, to implement each planned activity.

Issued in Washington, DC, on September 22, 1987.

William R. Voigt, Jr.,

Director, Office of Remedial Action and Waste Technology, Office of Nuclear Energy.
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REGISTRATION

Tuesday
September 29, 1987

Part IV

**Department of
Agriculture**

Food and Nutrition Service

**Department of
Health and Human
Services**

Family Support Administration

7 CFR Part 273

45 CFR Parts 205 and 233

Consistency for Food Stamp Program,
Aid to Families With Dependent Children
(AFDC) Program, and Adult Assistance
Programs; Proposed Rule

DEPARTMENT OF AGRICULTURE**Food and Nutrition Service****DEPARTMENT OF HEALTH AND HUMAN SERVICES****Family Support Administration****7 CFR Part 273****45 CFR Parts 205 and 233****[Amdt. No. 297]****Consistency for Food Stamp Program, Aid to Families with Dependent Children (AFDC) Program and Adult Assistance Programs**

AGENCIES: Food and Nutrition Service, USDA, and Family Support Administration, HHS.

ACTION: Proposed rules.

SUMMARY: A Notice of Intent to Develop Regulations was published on February 19, 1985 (50 FR 6970). The purpose of that notice was to solicit comments and recommendations from the public on ways the Family Support Administration (FSA) which administers the Aid to Families with Dependent Children (AFDC) Program and the Food and Nutrition Service (FNS) which administers the Food Stamp Program could enhance consistency between the two programs given existing statutory constraints. This rulemaking is the result of that notice of intent and sets forth proposed changes to the regulations of both the AFDC and Food Stamp programs for greater consistency. It also applies to the Adult Assistance Programs (Titles I, X, XIV, and XVI (Aid to the Aged, Blind or Disabled) of the Social Security Act).

This proposal does not address the provision on the categorical eligibility of certain AFDC, Adult Assistance and SSI households for food stamps contained in the Food Security Act of 1985 (Pub. L. 99-198; December 23, 1985). However, the manner in which categorical eligibility affects the issues in this proposal is discussed, where applicable; e.g., the preamble section on verification.

DATES: Comments must be received on or before November 30, 1987.

ADDRESSES: Comments should be submitted in writing to the Administrator of the Family Support Administration, Attention: Mark Ragan, Acting Director, Office of Policy, Office of Family Assistance, Department of Health and Human Services (HHS), 330 Independence Avenue SW., Room 5600, Washington, DC 20201, or delivered to the Office of Family Assistance, Family

Support Administration, Room B-448, Transpoint Building, 2100 Second Street SW., Washington, DC 20201, between 8:00 a.m. and 4:30 p.m., on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact persons shown below.

FOR FURTHER INFORMATION CONTACT: At the Family Support Administration: Mark Ragan, Office of Family Assistance, Family Support Administration, Transpoint Building, 2100 Second Street SW., Washington, DC 20201, telephone (202) 245-3290.

At the Department of Agriculture: Ms. Bonny O'Neil, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Va. 22302, telephone (703) 756-3414.

SUPPLEMENTARY INFORMATION:**Classification***Executive Order 12291*

This action has been reviewed under Executive Order 12291 and the Secretary of Agriculture's Memorandum No. 1512-11. The Departments have classified this action as non-major. The effect of this action on the economy will be less than \$100 million and will have an insignificant effect on costs or prices. Competition, employment, investment, productivity, and innovation will remain unaffected. There will be no effect on the competition of United States-based enterprises with foreign-based enterprises.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule related Notice(s) of 7 CFR Part 3015, Subpart V (Cite 48 FR 29115, June 24, 1983; or 48 FR 54317, December 1, 1983, as appropriate, and any subsequent notices that may apply), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, Stat. 1164, September 19, 1980). Anna Kondratas, Administrator of the Food and Nutrition Service, and Wayne Stanton, Administrator, Family Support Administration, have certified that this rule does not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they

administer the programs. Potential and current participants will be affected because of changes to various policies and procedures for both programs.

*Paperwork Reduction Act***Food Stamp Program**

The proposed § 273.2(e)(3)(i) requiring the State agency to advise households of its policy to immediately deny an application after the household misses one interview does not significantly alter or change burden estimates for application processing approved under the Office of Management and Budget's (OMB) No. 0584-0064. The reporting and recordkeeping requirements contained in proposed §§ 273.2(g)(3), 273.10(g)(1)(i), (ii) and (iii), 273.12(a), 273.13, and 273.15(q) are approved under OMB No. 0584-0064. The remaining provisions do not contain any reporting or recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

AFDC Program

The reporting and recordkeeping requirements contained in proposed § 205.10 are approved under OMB No. 0960-0260. The remaining provisions do not contain any reporting or recordkeeping requirements subject to OMB approval under the Paperwork Reduction Act of 1980.

Background

An on-going initiative for both the Department of Health and Human Services and the Department of Agriculture has been to bring about increased consistency to the AFDC and Food Stamp Programs by eliminating unnecessary differences. Both Departments recognize that many individuals participate in both programs and similar information is required in each program's eligibility determination process. In proposing changes to certain policies in order to achieve consistency, this proposed rule is intended to reduce unnecessary burdens on recipients as well as on the States in the administration of the programs. Suggestions for additional modifications or improvements which would further these purposes are welcomed.

Format

This preamble is divided into four sections. This first section provides the rationale for the proposed rule, definitions, and explanations on other related regulatory changes. The second section clarifies existing policies which currently permit consistency between the programs without regulatory change. The third section discusses regulatory

changes proposed for the AFDC, Adult Assistance and Food Stamp programs. The last section concerns commenters' recommendations for changes which were not adopted.

Rationale, Definitions and Other Related Rules

These proposed changes are designed to remove barriers to consistent administration of the AFDC, Adult Assistance and Food Stamp Programs and are based primarily on the comments received on the Notice of Intent to Develop Regulations. Additional changes are proposed which did not result from comments or legislative amendments but are changes which we believe will further contribute to greater consistency. An example of such a change for the Food Stamp Program is how households with fluctuating income are to report status changes rather than changes in dollar amounts. For AFDC and the Adult Assistance Programs, the fair hearings regulations were reviewed for consistency changes that were not necessarily addressed by commenters. Any issues dealing with monthly reporting/retrospective budgeting (MRRB) are being handled separately by both Departments.

All comments received in response to the Notice were reviewed but only those issues that were either repeatedly addressed or those over which the programs have some regulatory flexibility are discussed in any detail. Comments concerning policies which have been adopted by State option rather than required by Federal regulation and comments which were unclear or not pertinent are not addressed in this preamble.

Definitions

The Food Stamp Program defines (7 CFR 271.2) public assistance (PA) as the following programs under Titles I, IV-A, X, XIV, and XVI (AABD) authorized by the Social Security Act of 1935, as amended:

- Aid to Families with Dependent Children (AFDC) (all States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands).
- Old-Age Assistance (OAA) (Guam, Virgin Islands).
- Aid to the Blind (AB) (Guam, Virgin Islands).
- Aid to the Permanently and Totally Disabled (APTD) (Guam, Virgin Islands).
- Aid to the Aged, Blind or Disabled (AABD) (Puerto Rico).

The last four programs are in operation in the areas specified above instead of the SSI program. Therefore,

whenever a proposed change is applicable to households in which all members receive some type of PA benefits, all of the programs in the definition are included. The HHS rules refer to the latter four programs as the Adult Assistance programs. In the food stamp portion of this docket, the terms "PA" and "AFDC and Adult Assistance programs" are used interchangeably.

Categorical Eligibility

A number of commenters asked that PA recipients be categorically eligible, that is eligible to receive food stamps simply because of their eligibility for PA benefits. At the time of intent to propose rulemaking this could not be done by regulations. However, section 1507(a) of the Food Security Act amended section 5(a) of the Food Stamp Act to mandate categorical eligibility for households containing only recipients of AFDC, SSI, and Adult Assistance under titles, I, X, XIV and XVI of the Social Security Act within certain restrictions for "pure" PA/SSI households. This provision expires September 30, 1989 and USDA must evaluate the provision and report to Congress on the results of categorical eligibility.

The revisions needed to implement categorical eligibility and a discussion of issues are contained in a separate interim rulemaking published August 5, 1986. The information on categorical eligibility is provided to assist readers of this docket with how categorical eligibility will affect the various issues discussed herein.

Clarification of Existing Policy

The following discusses issues raised by commenters on which some degree of consistency can now be reached without any regulatory amendments.

Verification

A number of comments were received on verification requirements, especially those for citizenship. These comments were nearly evenly divided as to whether AFDC or food stamp's methods should be adopted. Food Stamp regulations set minimum requirements on what factors must be verified, and specify minimums on the types of acceptable documentation. The AFDC and Adult Assistance programs' regulations require substantiation of eligibility but do not set specific verification requirements for the eligibility worker. Consistency can be achieved within current regulatory provisions since State PA agencies are free to establish their own requirements. As States are ultimately held responsible for the accuracy of their determinations through quality control

reviews, it is important for States to verify any information which affects eligibility or payments as thoroughly as possible. Since the Food Stamp Program's verification requirements are the more specific, State agencies may wish to consider applying those specific requirements to the AFDC and Adult Assistance programs. This proposed rule solicits comments regarding any limitations on the ability of States to verify the same information for all the programs involved.

Terminology

A number of commenters asked that the AFDC and Food Stamp programs come into closer conformity on the terminology used. A number of the terms involved were reviewed. We found that many terms have a specific meaning for each program. For example, "household" for the Food Stamp Program is defined, in short, as persons who eat together. "Assistance unit", for the AFDC Program, is defined, in short, as persons included in the AFDC payment. Additionally, the persons who eat together may include persons who are not eligible for AFDC, e.g., unrelated persons. One food stamp household may contain a number of AFDC assistance units because food stamps is interested in who purchases and prepares food together. So, in actuality, these terms are not comparable even though, on the surface, they appear to be. We are making the terminology in the area of notices to households after certification more consistent. The Food Stamp Program proposes to define notice as "timely and adequate" or simply "adequate" as does the AFDC Program. It should be noted that this change is one in terminology and that current time frames remain the same. We encourage commenters to provide specific examples when recommending changes for consistency in terminology. We would also like to point out that States could now use consistent terminology in developing their internal handbooks and instructions.

Rounding

Several commenters proposed that the AFDC and Food Stamp Programs use the same methods for rounding. Under current statutes and regulations at 7 CFR 273.10(e)(2)(ii)(A)(2) and 45 CFR 233.20(a)(2)(iv), State agencies are required to round down the AFDC payment amounts and the Food Stamp allotment amounts. In addition, for the AFDC Program, both the statute and regulations require rounding down of the standard of need. In all other levels of computation, i.e., income, payment

standard, deductions. States may round in either direction when determining need and the AFDC payment. Also, the Food Stamp Program regulations at 7 CFR 273.10(e)(1)(ii) permit States to apply the same rounding precedures used by the AFDC Program. States may round in either direction when determining need and the amount of an Adult Assistance payment. Therefore, there are no inconsistencies which would necessitate a change in regulations.

Verification for Denials of Food Stamp Applications

A comment was raised that the Food Stamp Program should not require verification of household circumstances when an application is denied. There is apparently some confusion since the programs do not require verification under these circumstances. For example, if a household reports information which clearly makes it ineligible (such as a savings account with \$10,000 in it), verification is not required unless the household wishes to provide it or if the reported information is somehow questionable. For quality control purposes, the household's statement would be considered adequate. No regulatory changes are needed for conformance. This procedure is of valuable assistance to State agencies as it saves eligibility workers time and frees them to devote time to more difficult cases.

Continuation of Food Stamp Benefits When AFDC Benefits Are Terminated

Several commenters asked that a household's food stamp benefits be terminated when its PA benefits are terminated. Pursuant to section 11(i) of the Food Stamp Act, as revised by Pub. L. 99-198, and 7 CFR 273.12(f) when a household's PA benefits are terminated, food stamp benefits can be denied only if the household is not eligible for food stamps. For example, food stamp benefits would be continued if the factor causing termination of the PA benefits did not affect eligibility for food stamps. However, if the factor (such as an increase in countable income) also affected the household's food stamp benefits, action is taken as appropriate to adjust the household's food stamp benefits. A single notice of adverse action is sent if there is sufficient information to make the food stamp change. If there is insufficient information, the household is provided a notice of expiration so that the household's situation can be explored in more detail. By this method, both the State agency and the household have some flexibility in handling the change.

No revisions are being made on handling changes on jointly processed cases in this proposed rule.

Additional Conditions of Eligibility for AFDC and Adult Assistance

Commenters raised a number of issues about areas of eligibility conditions which must be met in the Food Stamp Program but not in the AFDC Program. Within certain limitations, specified at 45 CFR 233.10(a)(1)(ii)(B), States may now adopt parallel requirements in the AFDC and Adult Assistance programs. This regulation, to promote efficient administration and independent State welfare policies, permits the States to impose additional conditions of eligibility as long as the conditions are consistent with Title IV-A of the Social Security Act and are in keeping with its statutory goals. For example, a State could require cooperation with a Quality Control reviewer as a condition of AFDC eligibility, or it could specify periods of ineligibility for those individuals or assistance groups who transfer assets to be eligible for assistance.

Work Registration Procedures for AFDC

One commenter suggested that the AFDC Program conform to the Food Stamp Program which requires that work registration be performed by the State agency. Although it is a statutory requirement that registration for the regular Work Incentive Program (WIN) must be with the State employment services agency (SESA), under a memorandum of agreement the State welfare agency could perform the registration function for SESA. In States which have chosen to operate a WIN Demonstration Program, work registration is the responsibility of the IV-A State agency.

Treatment of the Earned Income Credit for AFDC

Another commenter suggested that the AFDC Program follow the Food Stamp Program's practice of treating the Earned Income Credit as income only when it is received. The Deficit Reduction Act of 1984 (DEFRA) has made this a statutory requirement, and a revised regulation has already been published at 45 CFR 233.20(a)(6)(ix).

Bilingual Requirements for AFDC and Adult Assistance

Several commenters suggested that the AFDC program amend its rules to require certain State agencies, serving a substantial number of non-English-speaking households, to have bilingual personnel and printed material. Another

commenter proposed that the Food Stamp Program's multilingual requirement for notices be replaced with a multilingual label for the notice telling households to have the notice translated.

Under the AFDC program's current rules, and the Adult Assistance programs as well, States are free to hire bilingual staff and print forms, etc., in as many languages as the State deems necessary with costs matched by the Federal government. Many States have adopted this procedure. The Family Support Administration does not believe it would be cost effective to require the use of bilingual staff and printed materials as States should have maximum flexibility in this area to adapt their own programs to meet the needs of their recipient populations. As to the comment on substituting a multilingual label in the Food Stamp Program, the Act requires that materials be available in other languages if appropriate, not just an indication that a translation is available.

Timely Reporting of Changes for AFDC and Adult Assistance

Severely commenters recommended that the two programs adopt uniform requirements for reporting changes which would affect eligibility or the amount of assistance. Although the Food Stamp Program regulations require such changes to be reported within 10 days, neither AFDC nor Adult Assistance regulations establish a time limit. States are therefore free to set their own standards for reporting changes and may adopt standards for AFDC and Adult Assistance which are consistent with those required for the Food Stamp Program.

Regulatory Changes

The following sections set forth what changes are being proposed for the AFDC, Adult Assistance and Food Stamp programs. The proposed food stamp changes are discussed first in their entirety because they appear first in the Code of Federal Regulations (Part 7 versus Part 45). A discussion of the AFDC and Adult Assistance changes follows immediately thereafter. In some cases the proposed rule results in the same requirements for all the programs. Even in these cases separate discussions are maintained (although the Adult Assistance Programs are generally included in the discussions of the AFDC changes) in order to establish a rationale within each program's framework.

*Food Stamp Program***Application Processing/Scheduled Interviews—§ 273.2(e)(3)**

The Notice of Intent specifically requested comments on the Food Stamp Program's current policy on second interviews contained in 7 CFR 273.2(e)(3). The current rule requires the State agency to attempt to schedule a second interview if the household fails to appear for the first interview. Further, the State agency can only deny the case if the household misses two interviews and the 30-day processing time from the date of application has elapsed. Federal policy for the AFDC and Adult Assistance Programs does not require an interview. However, if the State under its policy requires one, it is not mandated to reschedule a missed interview, and the State agency may deny the application immediately after the applicant fails to appear for the initial interview. The large majority of the comments received on second interviews recommended the use of the AFDC Program's policy. While food stamps cannot delete the interview requirement because of the Food Stamp Act, the Department of Agriculture is proposing to delete the requirement to schedule a second interview if the household failed to appear for the first scheduled interview. The State agency would also have the option of either immediately denying the household when it misses the first interview scheduled or denying the application on the 30th day following the initial application. Whichever option is chosen, the entire caseload for the State must be handled in the same way. The State agency would be required to inform the household prior to the first scheduled interview of the consequences of missing that interview; i.e., it is the household's responsibility to schedule another interview as the State agency would not be rescheduling the missed interview and whether the State agency has opted to immediately deny the application. This information must be provided in writing, either with the application form or when the household is given its interview time.

States which choose to immediately deny the household after missing a scheduled interview must provide a notice of denial at the time of the missed interview to inform the household that it must reapply if it wishes to receive food stamps. The State agency may develop a system to permit the household to reapply using only Part 1 of the FNS-385, Application for Food Stamps, (the "tear-off" sheet) to avoid completion of an additional multi-page application form. Any changes from the original

information on the application would be updated and initialed by the applicant or the authorized representative. For quality control (QC) purposes, the State agency must clearly differentiate between the original denied application and the reapplication made after the household misses the initial interview. If the State agency does not opt to immediately deny the household after missing the initial interview, the notice of denial would be sent at the end of the 30-day processing time for households which have not contacted the State agency to reschedule an interview. At its option, the State agency may send a reminder to the household after it misses its scheduled interview, again explaining the consequences of missing the scheduled interview.

The Department is further proposing to allow the State agency to immediately deny an application after the household misses a recertification interview provided the interview was scheduled after the household had timely filed the application. However, if the household failed or refused to appear for an interview prior to submission of a timely application, the State agency is required to attempt to reschedule another interview. If the household fails to appear for the second scheduled interview, the State agency may immediately deny the application.

Application Processing—§ 273.2(g) and (h)

The AFDC regulations, at 45 CFR 206.10(a)(3), require that a decision of eligibility shall be made "not in excess of 45 days" from the date of application while for disability under APTD and AABD the limit is 60 days. Section 11(e)(3) of the Food Stamp Act, as amended, provides that the State agency complete certification and provide an allotment not later than 30 days following the filing of an application. In addition, Food Stamp Program regulations at 7 CFR 273.2(h) provide that if the State cannot take any further action on the application due to the fault of the household, the State agency must give the household an additional 30 days to take the required action. If verification is lacking, the State may hold the application pending for 30 days following the date of the initial request for the missing verification. Currently, the State has the option to either send a household a notice of denial or a notice of pending status if verification is lacking and a decision of eligibility cannot be made by the 30th day after application. However, elsewhere in this regulation, a proposal is made to modify the notification requirements.

Several comment letters addressed the application processing timeframes of

the two programs. Most of the commenters recommended that the Food Stamp Program adopt the AFDC Program's timeframes which recommendation cannot be followed due to statutory restrictions. This proposed rule retains the statutorily mandated 30-day food stamp processing standard, but deletes the 30-day pending status in § 273.2(h) to be more compatible with the AFDC Program by at least eliminating the pending period which the AFDC Program does not have. The Department of Agriculture believes that households in need of assistance should take responsibility for promptly meeting all application processing requirements. However, no program can deny assistance at the end of the mandated processing time solely because the time limit for processing the application has lapsed. Therefore, the food stamp requirements in § 273.2(h)(3) on continuing to process an application when the State agency causes the delay is retained in the revised § 273.2(h). It should be noted that State agencies are not precluded from using a 30-day processing standard for their PA caseload to conform with that of the Food Stamp Program.

Residue—§ 273.3

The regulations of the Food Stamp Program at 7 CFR 273.3 require that a household reside in the project area in which it files an application for participation. A project area is a subdivision of the State, normally a county or independent city. However, some States have a Statewide project area. The AFDC and Adult Assistance programs require that the individual be a resident of the State. Commenters asked that the Food Stamp Program adopt the AFDC residence policy. This rulemaking changes 7 CFR 273.3 to permit States to allow Statewide residency. The State agencies could still designate limited project areas and could restrict where a given household could apply. This change will assist in reduction of quality control errors caused by a household participating in the wrong project area.

Work Registration Exemptions—§ 273.7(b)

A number of commenters suggested that the exemptions from AFDC's work incentive (WIN) program and food stamp's work registration be brought into closer alignment. Most of the current exemptions are specified by statute and are unalterable thus precluding total consistency. As a result of DEFRA, women in their third trimester of pregnancy are now exempt

(see 42 U.S.C. 602(a)(19)). For consistency, the Food Stamp Program proposes to also exempt these women from work registration under the authority of 7 U.S.C. 2013(c) and 2015(d). Since publication of the Notice of Intent, the Department has made efforts to bring requirements of the AFDC and Food Stamp Program into closer conformity in the area of work programs. For example, DEBRA excused from work requirements all individuals actually employed under a Work Supplementation Program (WSP). Through WSP, the AFDC Program diverts the grant to an employer in order to subsidize wages. Under this program, AFDC recipients may choose, on a voluntary basis, to accept an offer of work which is subsidized with State and Federal funds. Prior to December 31, 1986 regulations at 7 CFR 273.7(b) provided a work registration exemption for persons "subject to and participating in the WIN program under title IV." The Department recognized that this language precluded work registration exemptions for persons participating in title IV work programs other than WIN. It was not the intent of the Food Stamp Program to exempt those participating in WIN (title IV-C) from work registration while requiring registration of individuals participating in title IV-A work programs (including CWEP, job search and WSP). Therefore, a change was made in the final rule, entitled Employment and Training Requirements, published at 51 FR 47378, December 31, 1986. Now household members subject to and participating in any work program under title IV-A of the Social Security Act, as amended, are also exempt from food stamp work registration requirements.

Jointly Held Resources—§ 273.8(d)

Some comments were received on the Food Stamp Program's policy at 7 CFR 273.8(d) which requires counting as available to each household any jointly held resource, unless it is proven inaccessible. Under the AFDC and Adult Assistance programs, States establish criteria consistent with State law for determining the availability of jointly held resources.

To more closely conform the Food Stamp Program's and the PA policy, this proposal would exclude as a resource any jointly held available resource which State law prohibits noncontributory signatories from withdrawing or liquidating for their own benefit. Existing regulations cover jointly held unavailable resources in that they are considered inaccessible if the household's access to them depends on agreement of a joint owner who will

not comply. The AFDC and Adult Assistance programs are also amending their regulations in this area.

Funeral and Burial Agreements—§ 273.8(e)

Both the AFDC and Food Stamp Programs exclude one burial plot per member of the food stamp household and the assistance unit for AFDC from being considered an available resource. In addition, the regulations of the AFDC Program exclude for resource purposes the value, up to \$1500 in equity value per member of the assistance unit, of a bona fide funeral/burial agreement. The \$1500 limit was taken from the SSI program. The Food Stamp Program, by an indexed policy memorandum (Policy Memorandum 82-3, October 8, 1981) issued under the Policy Interpretation Response System, extends the regulatory exclusion (now statutory) for burial plots to funeral/burial agreements. The policy memorandum advised that no exclusion could be provided unless such funds are inaccessible or must be repaid, if withdrawn, according to a contractual agreement. However, no limit is now placed on the amount of the agreement.

Commenters requested consistency in this area, the majority preferring that the Food Stamp Program adopt the AFDC Program's policy. Therefore, it is proposed that 7 CFR 273.8(e)(2) be amended to exclude as a resource the value of a formal funeral/burial agreement up to \$1500 in equity value per household member. Examples of formal agreements are those which are either completely inaccessible or for which there is a contractual obligation to repay any withdrawals. By placing a limit on the amount of the agreement, the Food Stamp Program is not only becoming consistent with the AFDC Program but is lessening the likelihood of abuse of the exemption.

Interest Income—§ 273.10(c)

Commenters requested that the Food Stamp Program adopt their understanding of the AFDC policy on interest income. The commenters believed, incorrectly, that the AFDC program counted interest as a resource. However, both programs now count interest as income in the month received. Determining and verifying each month's interest amount can be very difficult, given the normally minimal amount involved and the fact that statements may not be available on a monthly basis. Therefore the programs are proposing that States agencies be given the option of projecting monthly interest income by periodically averaging monthly interest.

The eligibility worker would take a series of monthly figures, divide that total by the number of months involved, and project that average as the monthly figure taking into account any evidence that this average would no longer be expected to continue as a reliable average. This is different from taking an amount paid quarterly or semi-annually and prorating it over the period the payment covered, which can currently be done. The State agency would have the option of having the household report the monthly amount each month or only reporting each month's payment at recertification. These options should assist States by easing their administrative burden while still capturing a source of income to the household.

Notices—§ 273.10(g) and 273.13

A number of comments were received on the notices the programs provide to recipients. As a result, changes are being proposed to the programs' notice provisions. For the Food Stamp Program, the notices of adverse action, eligibility and denial are being changed. Use of the notice of pending status will be limited to State agency-caused delays. A discussion of the proposed revisions and why other requested changes were not made follows here.

Notices of eligibility, denial and pending status—§ 273.10(g)

While the large majority of comments on notices used by the Food Stamp Program dealt with the notice of adverse action, this proposal affords FNS the opportunity to bring the initial notices of eligibility, denial and pending status into closer consistency with notices provided in the AFDC and the Adult Assistance programs. In addition, the material included in these notices would be streamlined. However because certain information is needed for the Food Stamp Program (such as for variable benefits) that might not be needed for the PA programs and vice versa, there are some areas where notices must remain different. The notice of eligibility provisions would no longer require the form to contain information about legal aid availability or about how to contact the food stamp office. In addition, the optional reminder to the household to report changes or provide other useful information would no longer be specified. This information is given to the household at certification. The AFDC and Adult Assistance programs do not have such requirements. Households should know how to contact their local offices and should feel free to inquire about legal aid availability.

Also, households are told to report changes either on the monthly report or otherwise.

Further, the State agency may still provide such information or any other information it feels is useful. It is not necessary to provide such detail as to how a State must design its notices. Also, because many Statewide systems are in place and more may be established, given the change in the residency requirements in this docket, it may be difficult to provide such information about individual communities.

The notice of denial is also being redesigned. In addition to deletion of information on legal aid availability and how to contact the local office as discussed above, the notice of denial would be sent to households whose applications were not processed at the end of 30 days after application unless the State agency is at fault. The State agency will no longer have the option to send a notice of pending status. The notice of pending status must still be used for delays caused by the State agency.

Notice of Adverse Action—§ 273.13

Many commenters asked that the definitions for an adequate and timely notice be the same for all programs. For consistency, this proposal would remove the requirement at 7 CFR 273.13(a)(2) about a contact person and on legal aid availability and would add a requirement that the notice of adverse action include the specific regulations or law supporting the action taken. For the purposes of the notice, the regulation may either be the Federal or State regulatory citation or the State manual or handbook citation. For clarification, this proposal adds a statement that for monthly reporting households, adequate notice is defined elsewhere. Also, it clarifies that the household would have a right to continued benefits if it requests a fair hearing within 10 days after the notice was mailed.

As to the exemptions, this proposal would add an exemption from sending a notice of adverse action if agency mail is returned with no known forwarding address but requires provision of benefits if the household's whereabouts becomes known in the issuance month. In addition, the exemption section is being revised to make a distinction among the time when: (1) A timely and adequate notice must be given; (2) no notice of any kind is given; (3) an adequate notice is given; or (4) when another type of notification is given.

Several commenters asked that the Food Stamp Program adopt the AFDC Program's voluntary waiver to a notice

of adverse action and the right to continued benefits pending a hearing if an overissuance would result. This recommendation is not adopted as there are already adequate ways for the household to avoid an overissuance, such as not transacting its authorization card or returning its coupons.

Disallowed Costs of Producing Self-employment Income—§ 273.11(a)(4)

A number of commenters suggested that the items which are disallowed as costs of doing business when calculating self-employment income be made the same. Currently, self-employment income, or profit, is derived from subtracting certain business expenses from the gross receipts. Business expenses must be directly related to producing the goods or services. Certain items are excluded by each program from allowable business expenses. This rule conforms the list of items excluded by each program.

Boarders § 273.11(b)

A number of commenters recommended that the Food Stamp Program count income received from boarders when the household does not own and operate a commercial boardinghouse in the same manner as does the AFDC program. The AFDC and Adult Assistance programs treat boarder-generated income the same as all other self-employment income, and do not differentiate between income received by households which own and operate a boardinghouse and those which do not. The Food Stamp Program does differentiate between these two types of boarder income, treating income to households which own and operate a commercial boardinghouse the same as all other self-employment income. Income received from boarders in cases where the household does not own a commercial boardinghouse is calculated differently.

Current Food Stamp Program regulations at 7 CFR 273.11(b)(1) provide that States must use the Thrifty Food Plan as a basis of establishing the cost of doing business for income received from boarders if the household does not own and operate a commercial boardinghouse. The rules provide that the cost of doing business is either: (1) The cost of the Thrifty Food Plan for a household size equal to the number of boarders; or (2) the actual documented cost of providing room and meals, if that cost exceeds the Thrifty Food Plan. The majority of comment letters received on this subject recommended that the policy be more flexible, and patterned after the AFDC policy. Although its policy is not currently found in

regulation, the AFDC and Adult Assistance programs permit States to designate a flat percentage or a flat amount as the cost of doing business provided there is an objective and justifiable basis. If it can be shown that the actual expenses are higher than those resulting from application of the State's method, the State must use the higher amount. In this proposed rule, the Food Stamp Program is adopting the PA method, and the AFDC and Adult Assistance programs are putting their policy into regulation. This proposal establishes a ceiling of 75 percent of boarder-generated income as the cost of doing business. The figure of 75 percent was arrived at using 1982 data from the *Statistics of Income Bulletin, Summer 1984* issued by the Internal Revenue Service. This data showed for rooming and boarding houses (no data is available for individual roomers and boarders) that 72 percent of business gross income is for allowable expenses which excludes depreciation. We have rounded this figure up to 75 percent. For the Food Stamp Program, income received from boarders in a commercial boardinghouse will continue to be regarded as self-employment income. FNS encourages comments on the different treatment of boarder-generated income between households which own a commercial boardinghouse and those which do not.

Change Reporting Requirements for Non-Monthly Reporting Households § 273.12(a)

On January 16, 1981, the Department of Agriculture published a proposed rulemaking (46 FR 6310) which included a provision to revise the current policy on when certified households should report changes in income. Currently households are required to report changes in the source of income and gross monthly income changes exceeding \$25, with some exceptions. While this requirement causes no confusion in those instances when income either does not change or changes in a way which can be anticipated, the requirement is not clear with regard to fluctuating income. There are a number of interpretations of how to apply the change reporting requirements to fluctuating income and a number of options were considered when the original proposal was prepared. Please refer to the January 16, 1981, proposed rulemaking for a further discussion of the background of this issue.

The proposed revision to the change reporting policy was not adopted as a final rule because the Department felt,

at that time, monthly reporting would solve the problem of what changes recipients must report. Monthly reporting has now been in effect for a while but has not provided the complete solution the Department thought it would. A number of households are not subject to monthly reporting, either because of a statutory exclusion or because a waiver was granted for various categories of households for which monthly reporting is not cost-effective. For households exempt from monthly reporting but which have fluctuating income, the reporting of non-status (e.g., temporary overtime or loss of a few hours pay) changes is inconvenient and is difficult for States to administer. Also reporting changes in fluctuating income makes it difficult to calculate an accurate method of review for QC purposes. The AFDC Program does not specify by regulation how its recipients are to report changes. Each State agency decides how non-monthly reporters should report changes. A number of States define changes in circumstances as outlined in the AFDC QC manual. The AFDC QC manual (section 3 subsection 3050(B)) defines a change in circumstance as any employment status change which results in either increased or decreased income, for example, part-time to full-time, loss of job or change in hourly rate. Therefore, in the interest of consistency with the AFDC Program and to reopen comment on the issue of how to report changes in fluctuating income, the Department is reproposing an amendment to 7 CFR 273.12(a) on how changes are to be reported.

The Department proposes to require households with fluctuating income to report changes in the source of income, in the wage rate of fluctuating income, and ongoing changes in the number of hours worked—rather than changes of more than \$25 a month found in the current regulations. (There would be no change in the reporting requirements for households who do not have fluctuating incomes). Errors in household income are more frequently attributable to changes in basic employment status, such as converting from unemployed to employed status or from part-time to full-time employment, rather than fluctuations in the hours worked. The reporting of more permanent changes in wage rates would allow State agencies to more exactly match benefits to households' long term circumstances.

Under this proposal, households would report permanent changes in their circumstances. These would be changes that would affect future months' income and not sporadic changes. Because only

permanent changes would be reported, the handling of changes by clients and caseworkers would be less susceptible to error and the household would have a better understanding of what would have to be reported. Finally, this proposal would be easier for State agencies to monitor and would set a uniform method to be followed in QC reviews.

The Department recognizes that this proposal poses some issues of its own, such as the need to have a different set of income reporting requirements for households with fluctuating income than for other households. The Department would appreciate comments, especially on how State agencies are currently handling changes in fluctuating income.

Current regulations do not provide for the reporting of changes by households which have filed food stamp applications but have not yet been certified. Both section 6(c) of the Food Stamp Act of 1977 and § 273.12(a)(1) of the current regulations require only participating or certified households to report. The Department proposes to correct this omission by requiring applying households to report changes which have occurred since the filing of the application at the food stamp interview. Applicants and eligibility workers would discuss such changes when attempting to anticipate future circumstances. The Department further proposes that households report changes that occur between the food stamp interview and the eligibility determination within ten days after being certified as eligible. This procedure will avoid imposing an unnecessary burden on households not yet participating in the program, yet will not allow important changes to go unreported. Allowing such households ten days after being certified to report is consistent with current reporting requirements.

Fair Hearing Appeals—§ 273.15(q)

The PA regulations at 45 CFR 205.10(a) permit State agencies to establish a hearing appeals system which would provide recipients either a hearing before the State agency or an evidentiary hearing at the local level with a right of appeal to a State agency hearing. In the latter, a two-tier system, the second hearing can be either a "review hearing" of the prior evidence (if the recipient does not request another new hearing (a "de novo" hearing)) or it can be a "de novo" hearing.

The Food Stamp Program regulations at 7 CFR 273.15(q) provide that after a local level hearing which upholds the State agency action the household shall be notified of its right to request a

completely new ("de novo") State agency level hearing. If a new hearing would pose an inconvenience to the household, a State level review of the local hearing may be requested instead of a new hearing. If the household indicates that it wishes to appeal, but does not select the method, the State agency shall proceed with a new State level hearing.

No comments were received on this subject but in the interest of conformity a change is proposed to adopt the PA policy. This proposal would allow State agencies the option of offering either a "de novo" or review hearing as the second tier in a two-tier system if the recipient does not specify a "de novo" hearing.

Time Limits for Taking Collection Action—§ 273.18(d)(3)

Comments were received on bringing the programs' policies and procedures on recipient claims closer together. While many of the Food Stamp Program's requirements on recipient claims are statutory, those of the AFDC Program are not. The AFDC statute requires the collection of all overpayments except that States may elect not to take action to recover overpayments of less than \$35 from individuals no longer receiving assistance. Within this framework the basic AFDC policy is that States develop policies for recovering overpayments and take all reasonable steps to promptly recover overpayments in a timely manner. Therefore, State agencies now have flexibility to conform the procedures of the AFDC Program to those of the Food Stamp Program.

There is, however a specific regulatory requirement in the AFDC Program establishing a time limit for the State agency to take action once a claim/overpayment has been identified. There is no similar provision in the Food Stamp Program. In this proposal, the Food Stamp Program will adopt the AFDC Program's requirement because it will enhance consistency as well as improve the efficiency of claims/overpayment collection efforts. This new provision would require the State agency to take one of the following actions by the end of the quarter following the quarter in which the need for a claim is first identified: (1) Recover the claim, (2) initiate action to locate and/or recover the claim from a non-recipient, (3) execute a repayment agreement or, if applicable, reduce the household's benefits, or (4) initiate action to recover the claim from a recipient who is not subject to benefit reduction. Where compliance with the

above is not possible, the extenuating circumstances must be documented. For example, if collection of the claim would prejudice a potential fraud case or if there are problems with obtaining information needed to establish the claim, the State agency should document the appropriate details.

AFDC and Adult Assistance

Notice of Adverse Action § 205.10(a)(4)

Many commenters asked that the definitions for an adequate and timely notice be the same for both the AFDC and Food Stamp Programs. The AFDC and Adult Assistance programs' regulations at 45 CFR 205.10(a)(4)(i) (A) and (B), which define adequate and timely respectively, provide considerable flexibility for States to design notices and adopt policies which would accommodate the notice requirements of food stamps. Therefore, for the most part, proposed regulations represent adoption of a common, or at least similar, terminology with the Food Stamp Program rather than a change in current AFDC and Adult Assistance requirements.

There is, however, one policy change in the notice requirement proposed for the AFDC and Adult Assistance programs. This is addressed at § 205.10(a)(4)(ii)(B) of this rule which exempts from timely notice any termination of assistance resulting from a recipient's voluntary oral request for termination in the presence of an eligibility worker. This change will permit States to terminate assistance at the oral request of the recipient without advance notice as is currently permitted by the Food Stamp Program. As for any case where action is taken without timely notice, agencies are required to send adequate notice of adverse action no later than the date of action; and, if the recipient requests a hearing within 10 days of the mailing of that notice, the State agency must reinstate assistance until a decision is rendered after the hearing. Thus, the recipient is protected in case there is a misunderstanding.

Subparagraphs in paragraph (ii) of § 205.10(a)(4) have also been reordered to be more like the order of regulations of the Food Stamp Program.

Fair Hearings § 205.10(a) (7) and (13)

From the comments received and from analysis conducted in conjunction with development of this proposal, one change has been identified that would make the AFDC and Adult Assistance programs' fair hearings requirements more consistent with those in the Food Stamp Program. This proposal would amend 45 CFR 205.10(a)(7) to permit, at

State option, reinstatement of assistance pending a hearing if the recipient has good cause for failing to request a hearing with the 10 days after the date of the action. Good cause is limited to circumstances beyond the recipient's control, e.g., hospitalization, death in the family. The current regulation already permits reinstatement if the recipient requests a hearing up to 10 days after the date of the action.

In addition to the change described above, this proposal also would add headings to a number of paragraphs in this section in order to make the regulations easier to read.

Some of the comments received requested regulatory changes which are unnecessary because States currently have the flexibility to modify their AFDC and Adult Assistance programs' fair hearing requirements in these areas to conform with those for the Food Stamp Program. For instance, a commenter requested that the AFDC Program adopt the Food Stamp Program provision that permits a participant to waive continuation of benefits pending a hearing decision. Section 205.10(a)(6)(i)(c) of a Final Rule published on March 18, 1986, in the *Federal Register* (Vol. 51, No. 52, p. 9203), makes it explicit that States may permit recipients to waive continuation of benefits.

Another area in which States have the option of establishing consistency is requests for hearings. Although the Food Stamp Program requires States to accept both oral and written requests, the AFDC and Adult Assistance regulation at 45 CFR 205.10(a)(5)(i) permits States to accept oral requests or to require that requests be in written form. Since some comments favored requiring acceptance of oral requests while others favored allowing States to accept written requests only, States will continue to have maximum flexibility in this area.

One commenter suggested that the AFDC regulation be amended to adopt the Food Stamp Program requirement that assistance must be continued pending a hearing if the timely notice period ends on a weekend or holiday and the hearing request is received the next day. Since the regulation at 45 CFR 205.10(a)(7) permits reinstatement of assistance if the request is received up to 10 days after the date of the action, States may institute such a provision without a change to the regulation.

Another recommendation would expand the AFDC regulation at § 205.10(a)(8) to match the detailed and specific Food Stamp Program requirements regarding the time, date, and place of the hearing and the content of the advance notification to the

applicant or recipient. Since the existing regulation already permits States to have the same requirements and many, in fact, do, DHHS does not believe that it is necessary to amend the regulation to require the adoption of identical provisions.

One suggestion called for the AFDC Program to adopt a Food Stamp Program requirement with respect to the reinstatement and continuation of benefits pending a hearing decision. The Food Stamp Program's regulations at 7 CFR 273.12(e) require that, when benefits are automatically reduced or terminated because of a mass change, the benefits cannot be reinstated and continued pending the hearing unless the issue being contested is one of improper computation of benefits or misapplication or misinterpretation of Federal law or regulation. The corresponding AFDC and Adult Assistance programs' regulation at 45 CFR 205.10(a)(5) provides that, "A hearing need not be granted when either State or Federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant computation." Since this provision permits a State to not grant a hearing when the sole issue being contested is the State or Federal law itself, it is broad enough to permit a State to grant a hearing if the issue is one of misapplication or misinterpretation of the law. Therefore, in actuality, a State could follow food stamp policy on this point.

Social Security Numbers § 205.52

A number of commenters requested that similar policies with respect to Social Security Numbers (SSN) be adopted by both the AFDC and Food Stamp Programs. Most differences were addressed in the final Income and Eligibility Verification System (IEVS) Rule on section 1137 of the Social Security Act published in the *Federal Register* on February 28, 1986, (Vol. 51, No. 40 p. 7271). However, the final Food Stamp Program IEVS rule changes § 273.6 to permit continued participation when there is good cause for failure to complete an application for an SSN but the final AFDC and Adult Assistance IEVS rule at § 205.52 does not.

Current AFDC regulations provide for two procedures when an AFDC applicant/recipient is unable to furnish an SSN. First, States may execute agreements with the Social Security Administration whereby the State agency will complete an SSN application for the AFDC applicant/recipient. If the individual is otherwise

eligible, financial assistance is provided without undue delay. Secondly, in the non-agreement States, the regulations require that the AFDC applicant/recipient must apply directly to the Social Security office for an SSN. In this instance, the requirement "to apply" is very strictly interpreted. For example, the individual who actually applies at the Social Security office for an SSN and is told that the application cannot be completed because of the lack of necessary evidentiary documentation, is not considered, under current policy, to have met the requirement "to apply for an SSN." The trip(s) to the Social Security office, and the need to secure the required documentation (which is not always immediately available) contribute to the delay or denial of financial assistance under these circumstances.

In addition to moving towards consistency with food stamp policy, the proposed rule will remove a major obstacle to providing assistance payments to needy individuals. It will permit continued AFDC and Adult Assistance if the State agency has determined good cause exists for failing to complete the application for an SSN, e.g., the individual provides documentation that he or she has sent for and is awaiting receipt of a birth certificate from another State. If the State agency determines that good cause exists, and the applicant is otherwise eligible, the individual will be eligible for assistance for a period of no longer than four months. If the applicant has been unable to obtain the documents required to complete the SSN application, the State agency's eligibility worker should make every effort to assist the individual in obtaining these documents. Good cause for failure to apply must be shown monthly during the four-month period in order for the individual to continue to receive assistance. The State agency must maintain documentation of the good cause determination in the case file. Good cause will not exist when delays are due to factors such as illness, lack of transportation or temporary absence because the Social Security Administration makes provision for mail-in applications in lieu of applying in person.

Jointly Held Resources— § 233.20(a)(3)(ii)(D)

Some commenters suggested that changes be made which would permit consistency when resources are jointly owned by a member of the assistance unit (household) and a non-member. AFDC and Adult Assistance regulations at 45 CFR 233.20(a)(3)(ii)(D) require

States to consider resources available for current use and further provide that resources are considered available when actually available, and when the applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance. An Action Transmittal, AT-82-27, dated November 1, 1982, interpreted this to mean that whether or not a jointly owned resource is considered available in its entirety to an applicant/recipient owner must be determined in accordance with applicable State law. An exception is made for resources jointly held by SSI and AFDC recipients. In those cases, the value of the jointly held resources are prorated among the owners.

Section 5(g) of the Food Stamp Act requires that the Secretary prescribe allowable amounts of liquid and nonliquid resources. Federal regulations at 7 CFR 273.8(d) specify that resources owned jointly shall be considered in their entirety to each owner unless the applicant/recipient can establish that such resources are inaccessible.

The programs are amended their regulations to provide that States must consider any jointly held available resource in its entirety to each owner unless State law prohibits noncontributory signatories from withdrawing joint account funds or liquidating resources for their own benefit. This proposal would also specify that this policy applies to resources jointly held by SSI and AFDC recipients. This change is consistent with section 402(a)(24) of the Social Security Act, as amended, which precludes States from counting an SSI recipient's income and resources in determining eligibility for AFDC and payment amounts. When State law permits unrestricted access to either individual, the resource belongs in its entirety to each individual even though it may be jointly held. The proposal therefore reflects the reality of what resources the individual has access to.

Proration of Contractual and Self-Employment Income—§ 233.20(a)(3)(iii)

Current AFDC and Adult Assistance programs' regulations permit States to average or prorate income received by individuals paid on a contractual basis over the period of the contract and income received by farmers or self-employed individuals over the period covered by the income. On the other hand, Food Stamp Program regulations at 7 CFR 273.10(c)(3)(iii) and 273.11(a)(1) require State agencies to prorate income over twelve months for self-employed households and those under contract

which derive annual income in periods less than one year.

The AFDC and Adult Assistance programs' regulations at 45 CFR 233.20(a)(3)(iii) would be revised to permit States to adopt the Food Stamp Program's policy and prorate an individual's annual income over a 12-month period. For example, school teachers who receive annual income in only nine months of the year would have their income prorated over twelve months, even if they only have a nine-month contract, as long as there is no evidence that they will not be rehired following the summer break.

Averaging of Interest Income— § 233.20(a)(3)(iii)

Commenters requested that the Food Stamp Program adopt AFDC policy on interest income. However, this request was based on the commenters' misconception that the AFDC Program requires that interest income be counted as a resource. Current regulations of all the programs require that under retrospective budgeting interest be counted as income in the budget month in which it is received. It is difficult and time consuming to determine and verify interest income monthly. Therefore, because there is usually a small amount involved and statements may not be available on a monthly basis, the Programs propose to amend their regulations to permit States to project monthly interest income by periodically averaging monthly interest income. This will ease their administrative burden while accurately reflecting what income is available.

Self-Employment Income— § 233.20(a)(6)(v)(B)

Commenters suggested that the same business expense deductions from gross self-employment income be used for each program. Although the current AFDC regulation at 45 CFR 233.20(a)(6)(v)(B) limits deductions only to those expenses ". . . without which the goods or services could not be produced," it does not identify the same specific prohibitions contained in the Food Stamp Program's regulations at 7 CFR 273.11(a)(4)(ii). This proposal only applies to AFDC and would amend the regulation at 45 CFR 233.20(a) to specifically exclude the following additional items from business expenses: Net losses from prior periods; money set aside for retirement purposes; the purchase price or payments on the principal of loans for equipment or machinery; and Federal, State or local personal income taxes.

A number of commenters requested that the Food Stamp Program adopt the AFDC Program's policies on determining the business expenses associated with income produced by providing room and board. This proposed rule codifies what has been a longstanding AFDC and Adult Assistance Program's policy by adding a new paragraph (C) to 45 CFR 233.20(a)(6)(v) to expressly permit States, in lieu of actual expenses, to use a flat amount or fixed percentage of broader-generated gross income to determine business expenses. The maximum deduction, whether a flat amount or fixed percentage, can be no more than 75 percent as long as the method used has an objective and justifiable basis. (Rationale is provided for the 75 percent in the food stamp discussion of this issue.) In any case, actual expenses must be used if the applicant or recipient can demonstrate that the actual expenses are higher than those which result from use of the State's method.

Conversion to Monthly Income— § 233.31(b)

Several commenters proposed that the AFDC Program amend regulations to permit States to use conversion factors for weekly and bi-weekly income as is currently permitted under the Food Stamp Program's regulations at 7 CFR 273.10(d)(2). The definition of prospective budgeting would be amended at 45 CFR 233.31(b) to state that a best estimate may be derived by multiplying weekly amounts by 4.3 and bi-weekly amounts by 2.15. This would not, however, relieve States from adjusting for any overpayments and underpayments which result when the best estimate does not reflect actual income. Conversion may not be used to adjust a payment budgeted retrospectively. Using conversion factors is already permissible for the Adult Assistance Programs.

Regulatory Changes Which Will Not Be Made

A number of commenters suggested changes to provisions which were not adopted because of policy considerations or statutory requirements. This section discusses these issues.

Policy Issues

Face-to-Face Interviews for AFDC and Adult Assistance

Several commenters suggested that the AFDC and Food Stamp Programs have consistent policy requirements for face-to-face interviews. Another commenter asked that the AFDC

Program permit States to waive face-to-face interviews under circumstances that parallel those in the Food Stamp Program. Another commenter proposed that the Food Stamp Program should only require face-to-face interviews at certification and every 12 months thereafter.

Final rules for AFDC at § 206.10(a)(9)(iii) published in the *Federal Register* March 18, 1986 (Vol. 51, No. 52, p. 9203) require that at least one AFDC redetermination for each individual case every 12 months must be face-to-face. The regulation does not specify where it must take place. However, the Adult Assistance Program's regulations currently in effect do not require face-to-face interviews either at application or redetermination. On the other hand, the Food Stamp Program's regulations at 7 CFR 273.2(e) and 272.7(g) require that a face-to-face interview be held in a food stamp office or other certification site prior to initial certification and all recertifications. The State agency may waive the office interview in very limited circumstances and, instead, schedule a home interview or, in very limited circumstances, conduct the interview by telephone.

The AFDC Program's regulations are not being changed to permit waivers of face-to-face interviews. Inasmuch as the waiver would apply for AFDC in only very limited circumstances, it does not justify a regulatory change. Personal contact is essential to identify inconsistencies in information provided by the family. Since AFDC interviews may be scheduled in the home or office, where most of the Food Stamp interviews take place, and is only required every 12 months, conflict between the two programs' requirements should be rare and the administrative burden minimal.

Use of Authorized Representatives

Commenters requested that States be required to permit the use of authorized representatives in the AFDC Program. The existing regulation at 45 CFR 206.10(a)(1)(ii) now provides for the use of authorized representatives in the application process, in that it requires a written application "from the applicant himself, or his authorized representative. . . ." Similarly 45 CFR 205.10(a)(3)(iii) provides for an authorized representative in the hearing process. This proposal will not, however, expand the AFDC or the Adult Assistance Programs' regulations to require the use of authorized representatives to the same extent as in the Food Stamp Program. To do so would require permitting an authorized representative to substitute for a

recipient in redeterminations and for AFDC would conflict with the philosophy of the Final Rule at 45 CFR 206.10(a)(9) published March 18, 1986 which requires face-to-face redeterminations at least once every 12 months. The importance of the face-to-face redetermination in reducing erroneous payments is sufficient to preclude any expansion of the AFDC Program's authorized representative provisions.

Accessory Value of Vehicles

The recommendation that the AFDC Program exclude the value of accessories and optional features in determining the value of a vehicle is not being adopted. The Food Stamp Program, for the most part, uses the fair market value of licensed vehicles and only counts that value as a resource to the extent that it exceeds \$4,500. On the other hand, AFDC regulations at 45 CFR 233.20(a)(3)(i)(B)(2) permit States to exclude from consideration as a resource the equity value of a car up to \$1,500 and apply any excess to the \$1,000 resource limit. AFDC, therefore, counts the value of accessories, except for special equipment for the handicapped, because it values this car in the same way as it values other resources, i.e., the amount that would be received if the item were sold. The accessory value of vehicles would not affect households categorically eligible for food stamps as these households would have the AFDC policy applied. However, under 45 CFR 233.20(a)(3)(i)(A), the Adult Assistance programs permit States to exclude the full value of an automobile including accessories.

Earned Income In-Kind

Some commenters proposed that the AFDC Program adopt the Food Stamp Program's regulations at 7 CFR 273.9(c)(1) which preclude States from counting earned income received in-kind. Alternatively, another commenter suggested that the Food Stamp Program adopt the AFDC Program's regulations at 45 CFR 233.20(a)(6)(iii) which provide that earned income includes earned income received in-kind and must be counted. However, the Food Stamp Program is precluded by statute from counting any in-kind income. We propose not to change AFDC or Adult Assistance regulations. It is appropriate to treat earned income received in-kind differently by both programs because of each program's focus. Generally the most common example of earned income received in-kind is shelter. AFDC and Adult Assistance payments

are made to meet basic needs which include shelter; therefore, if the employer provides shelter rather than cash, it is appropriate to count it.

Irregular/Infrequent (Casual/Inconsequential) Income

Several commenters suggested that the AFDC Program adopt the Food Stamp Program's policy on irregular and infrequent income. Food Stamp Program regulations at 7 CFR 273.9(c)(2) implementing section 5(d)(2) of the Food Stamp Act of 1977, as amended, require that States disregard any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated but not in excess of \$30 in a quarter. The AFDC Program is not adopting the Food Stamp Program's policy because it wishes to see the impact of final AFDC regulations at § 233.20(a)(3)(iv) recently published in the Federal Register on March 18, 1986 (Vol. 51, No. 52, p. 9205) which provide that States may exclude only gifts which represent reasonable, nominal amounts not to exceed \$30 for any recipient for any quarter, e.g., Christmas, graduation, and birthday gifts. We propose no change in Adult Assistance regulations which currently permit States to conform to food stamp policy.

Vendor Payments

Some commenters proposed that the AFDC Program adopt the Food Stamp Program's policy at 7 CFR 273.9 which follows section 5(d) of the Food Stamp Act and excludes certain vendor payments (third-party payments) from income.

The AFDC Program's regulations do not address the treatment of vendor payments as unearned income. However, longstanding AFDC and Adult Assistance policy permits States to disregard the value of vendor payments as in-kind income. No changes are being proposed at this time in the treatment of vendor payments.

Educational Grants, Loans and Scholarships and Non-educational Loans—§ 233.20(a)(3)(iv)

Some commenters suggested that the AFDC and Food Stamp Program policies on educational grants and loans be made the same, while others requested that the AFDC Program adopt the Food Stamp Program policy of excluding non-educational loans from consideration as income.

The current AFDC and Adult Assistance regulation at 45 CFR 233.20(a)(3)(kv)(B) requires the exclusion of " * * * loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs." An exception to the AFDC and Adult Assistance regulation, however, established by Pub. L. 90-575 (the Higher Education Act), mandates that the AFDC and Adult Assistance programs totally exclude all loans and grants made under the auspices of the Department of Education. The Food Stamp Program's statutory requirement is that deferred-payment educational loans, grants and like must be excluded to the extent they are used for tuition, mandatory school fees and certain other educational expenses at an institution of post secondary education or school for the handicapped. The programs, while similar in the treatment of educational loans, differ considerably in the treatment of non-educational loans. In the Food Stamp Program, it is a statutory requirement to exclude non-educational loans from consideration as income. In the AFDC and Adult Assistance programs, non-educational loans have been considered under the same criteria as educational loans, i.e., they are excluded if they are " * * * obtained and used under conditions that preclude their use for current living costs." However, the AFDC Program is not adopting the Food Stamp Program's policy at this time pending further review.

Fair Hearings

Two issues were raised by commenters on fair hearings. One was

to make the time periods for the State agency to complete action on a fair hearing request the same and the other was to make the limits for applicants and recipients to request fair hearings the same. The AFDC program gives the State agency 90 days after the applicant's or recipient's request for a fair hearing to take final administrative action. The Food Stamp Program allows 60 days. At this time, no changes are being proposed to the fair hearing time frames because of differences in what must be accomplished in each program within the specified time frame and because the House Committee Report regarding the 1977 Food Stamp Act (H.R. Rep. No. 95-464) urges the program to use 60 days.

The second issue was whether food stamps should conform to the AFDC Program's 90-day time limit for an applicant or recipient to request a fair hearing. Under Food Stamp regulations, a household may request a fair hearing within 90 days of the action of which it is aggrieved or at any time during the certification period. About half of the persons or groups that commented on this issue wanted the Food Stamp Program to delete the requirement that a household could request a fair hearing at any time during its certification period. The Department of Agriculture has decided not to revise the current provision because the Department feels that a household should have the right to a fair hearing to correct any action which occurs at any time during its certification period.

Statutory Issues

Commenters suggested many changes which cannot be made through regulation because the requirements are established by the statutes governing the AFDC and Food Stamp Programs. Both Departments are exploring a number of these suggestions for upcoming legislative initiatives. Those policy areas where commenters suggested changes which are precluded from conformity by statute are:

STATUTORY PROVISIONS

Policy	AFDC program	Food stamp program
Lump Sums ¹	Counts as income.....	Counts as a resource.
Child Support Exclusion for Title IV-D Payments ¹	Disregards first \$50 in child support collected each month.	Permits States to disregard first \$50 as does AFDC if the State reimburses USDA.
Earnings of Students under 18 ¹	State has option to disregard any earnings of a dependent child who is a full-time student in the determination of eligibility for up to six months per calendar year. (This disregard is applicable to both applicants and recipients).	Excludes as income.

STATUTORY PROVISIONS—Continued

Policy	AFDC program	Food stamp program
Earnings of 18-year-old High School Students ¹ . Earned Income Deductions	Disregards earnings of a dependent child who is a full-time student or is a part-time student who is not employed full-time in the determination of need and the amount of payment. (This disregard is applicable to recipients only). Applies the general earned income deductions to other students 18 years old or under. Same as above	Counts as earned income.
Earnings Under JTPA State Training Programs ¹ .	Disregards: \$75 standardized work expense deduction. Actual costs up to \$160 per month per dependent child or incapacitated adult living in the same home and receiving AFDC when employment is full time. A lesser amount is set by the State for part-time employment. \$30 and one-third of remainder in four consecutive months; then \$30 is available in eight additional consecutive months. The disregard is not applied again until the person has been off the AFDC rolls for a period of 12 consecutive months.	Disregards 20% of total gross household earnings. Actual costs up to \$160 per month per household when care for a dependent or an incapacitated adult is needed to accept or continue full or part-time employment or to conduct job search.
Dependent Care Deduction	State has option to disregard income of any dependent child. Earned income may be disregarded for up to six months per calendar year. (Unearned income may be disregarded indefinitely). Earnings of other JTPA program participants are disregarded under the general AFDC earned income deductions. State has option to disregard unearned income of other IV-A program participants to the extent permitted under the complementary program relationship regulatory provision.	Included as earned income except for dependents under 19.
Definition of Proper Payments for Recoupment	Actual costs up to \$160 per month per dependent child or incapacitated adult living in the same home and receiving AFDC when employment is full time. A lesser amount is set by State for part-time employment.	Actual costs up to \$160 per month per household when care is needed for dependent child or incapacitated adult in order to accept or continue full or part-time employment to do job search and for certain students.
Cash Surrender Value of Life Insurance ¹	Changes in circumstances that affect eligibility or payments in the month in which the change occurs is either an overpayment or underpayment for that month.	Changes in circumstances reported as required do not affect benefits in the month the change occurs.
Income-Producing Real Property ¹	Counts as a resource	Excludes as a resource.
Vehicles ¹	Same as other real property: counts as a resource except allows conditional AFDC payments for up to 9 months if trying to sell real property other than house.	Excludes as a resource if producing income consistent with fair market value but counts income.
Resource Limits ¹	Excludes equity value prescribed by Secretary—first \$1500 of (including accessories) and counts remainder as available resource. State may set lower limit.	Counts market value in excess of \$4,500 (excluding accessories) with amount over \$4,500 counted counts equity value of excess vehicles.
Strikers	Allows \$1,000 per assistance unit. State may set lower limit.	Allows \$2,000 per household or \$3,000 for households with an elderly member(s).
Frequency of Work Registration	Assistance unit is ineligible if either parent is on strike last day of month; otherwise only non-parent ineligible if on strike last day of the month.	Household ineligible if any member is on strike unless household was eligible prior to strike or member is exempt from work registration.
Collections of Claims/Overpayments by Recovery from Grant or Allotment. Special Needs	Nonexempt individual must register for work once and registration continues with eligibility. Mandatory for all types of overpayments including State agency error. Includes in States need standard	Nonexempt household member must register at certification and once every 12 months thereafter. Mandatory for fraud claims and household errors; voluntary for State agency errors. Includes as income as statute does not list as specific exclusion.
Potential Sources of Income	Requires that AFDC applicants explore and, if potentially eligible, apply for benefits from other programs.	Statute does not permit approval for food stamps to be conditioned upon application for any other program.

¹ Because of categorical eligibility for households with all members receiving or authorized to receive PA and/or SSI benefits, food stamp eligibility is determined solely on the basis of the household's PA/SSI status. In this sense, the PA resource and income definitions are used to determine food stamp eligibility.

Implementation

The proposed implementation schedule would be that the revised regulatory requirements would be implemented for all AFDC and Adult Assistance cases and for new food stamp cases 90 days from the first of the month following publication. For other food stamp cases, conversion would be at recertification or when other changes are being processed, including monthly reports occurring after 90 days from the first month following publication. As for State agency options, these could be adopted at any time, as long as implementation is done uniformly. Changes to notices for conformity purposes would be done within 180 days from the first of the month following the month of publication.

List of Subjects

7 CFR Part 273

Administrative practice and procedure, Aliens, Food stamps, Fraud, Grant programs-social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

45 CFR Part 205

Administrative practice and procedure, Aid to families with dependent children, Family assistance, Grant programs-social programs, Public assistance programs, Reporting requirements.

45 CFR Part 233

Aid to families with dependent children, Aliens, Family assistance, Grant programs-social programs, Public assistance programs, Reporting requirements.

Accordingly, 7 CFR Part 273 and 45 CFR Parts 205 and 233 are proposed to be amended as follows:

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

1. The authority citation for 7 CFR Part 273 continues to read as follows:

Authority: 7 U.S.C. 2011–2029.

2. In § 273.2:

- a. Paragraph (e) is amended by revising paragraph (e)(3) in its entirety.
- b. In paragraph (g)(3), the second and third sentences are revised.
- c. The text of paragraph (h)(1) is revised in its entirety.
- d. Paragraph (h)(2) is removed and paragraphs (h)(3) and (h)(4) are

redesignated (h)(2) and (h)(3) respectively.

e. In the newly redesignated paragraph (h)(3):

1. Sentences 3 and 4 in (h)(3)(i) are removed;
2. The last sentence of (h)(3)(ii) is removed; and
3. Paragraph (h)(3)(iii) is removed.

The additions and revisions read as follows:

§ 273.2 Application processing.

* * * * *

(e) *Interviews.* * * *

(3) The State agency shall schedule all interviews as promptly as possible to ensure that eligible households receive an opportunity to participate within 30 days after the application is filed. If the household fails to appear for the first scheduled interview, the State agency is not required to initiate any further action to reschedule a second interview. While the State agency may initiate efforts to schedule a second interview, it is the household's responsibility to schedule the interview. The State agency may either immediately deny the household after it misses the interview or may deny the household 30 days after the application was filed.

(i) State agencies which deny households immediately after the household misses the first scheduled interview must so advise the household in writing on the application materials or on a separate information sheet provided to the household at the time the household receives an application or schedules its initial interview. Such agencies must also advise the household in the manner stated above that the household will have to reapply if it misses the scheduled interview. Denial notices shall be sent immediately after the scheduled interview is missed.

(ii) State agencies which deny households when the 30-day processing time has elapsed after the household misses the first scheduled interview and no other interview was conducted, must advise the household in the same manner as in paragraph (e)(3)(i) of this section that if the household misses that first interview the household will be denied unless an interview is conducted within the 30-day processing time period. Denial notices must be sent on the 30th day following the date of application as provided in § 273.2(g)(3).

* * * * *

(g) *Normal processing standard.* * * *

(3) *Denying the application.* * * * The State agency may either send the notice of denial immediately after the household misses one scheduled interview or send the notice of denial on the 30th day following the date of application. If a notice of denial is sent immediately after the first interview is missed or on the 30th day, it shall explain to the household that it must file a new application if it wishes to participate in the Program.

(h) *Delays in processing.* * * *

(1) *Determining cause.* The State agency shall first determine whether the cause of the delay is the household or the State agency. If it is the household's fault, the State agency shall deny the household. If the delay is caused by the State agency, the procedure in paragraphs (h)(2) and (h)(3) of this section shall be followed.

* * * * *

3. In § 273.3, the first sentence is removed and three new sentences added in its place to read as follows:

§ 273.3 Residency.

Households must be living in the State in which they file applications for participation. Within the State, the State agency may establish project areas as defined in § 271.2. The State agency may also require households to file applications for participation in specified project areas or offices. * * *

4. In § 273.7, paragraph (b)(1)(ix) is added.

The addition reads as follows:

§ 273.7 Work registration requirements.

* * * * *

(b) *Exemptions from work registration.*

(1) * * *

(ix) A pregnant woman when it is verified, on the basis of medical evidence, that the child is expected to be born in the month that registration otherwise would be required or within the next 3 months.

* * * * *

5. In § 273.8:

a. Paragraph (d) is amended by redesignating paragraphs (d)(1) and (d)(2) as paragraphs (d)(2)(i) and (d)(2)(ii), respectively, designating the first three sentences of introductory paragraph (d) as paragraph (d)(1), designating the last two sentences of introductory paragraph (d) as paragraph (d)(2) introductory text and a new sentence is added at the end of newly designated paragraph (d)(1).

b. The first sentence of (e)(2) is revised and a new sentence is added immediately following that sentence.

The revisions and additions read as follows:

§ 273.8 Resource eligibility standards.

(d) Jointly owned resources. (1) * * * In addition, jointly-held available resources, such as accounts in financial institutions, shall not be counted as a resource for each household if State law prohibits noncontributory signatories from withdrawing funds from or liquidating such assets for their own benefit.

(e) Exclusions from resources. * * *

(2) Household goods, the cash value of life insurance policies, personal effects including one burial plot (no limit) per household member and one formal burial or funeral agreement per household member, provided that the agreement does not exceed \$1,500 in equity value, in which event the value above \$1,500 is counted. Examples of formal agreements are those from which no withdrawals can be made or if withdrawals are allowed there is a contractual obligation to make repayment. * * *

6. In § 273.10:

a. A new paragraph (c)(1)(iii) is added.

b. Paragraph (g)(1)(i)(A), is amended by removing the last four sentences and adding a new sentence in their place.

c. Paragraph (g)(1)(ii) is amended by revising the first sentence, removing the second sentence and adding two new sentences in its place, and by removing all text following the sentence which ends with the words "PA and/or SSI benefits."

d. Paragraph (g)(1)(iii) is revised in its entirety.

The revisions and additions read as follows:

§ 273.10 Determining household eligibility and benefit levels.

(c) Determining income—(1) Anticipating income. * * *

(iii) When determining interest income the State agency has the option of: Prorating interest, using the total interest income and dividing it by the number of months it covers, e.g., annually, semi-annually, and/or quarterly; using an average of each month's interest amounts adjusted for any known differences from the information used for the average; or counting each month's actual amount. Any of these procedures may be used

for households prospectively or retrospectively budgeted, regardless of whether a monthly report is submitted. The State agency has the option of how the household reports the interest information on the monthly report.

(g) Certification notices to households.

(i) Notice of eligibility. (A) * * * The notice shall also advise the household of its right to a fair hearing and, if the State agency chooses, a statement on reporting changes since the application was filed.

(ii) Notice of denial. If the application is denied, the State agency shall provide the household with written notice explaining the basis for the denial and the household's right to request a fair hearing. The State agency shall also use a notice of denial when a delay was caused by the household's failure to take action to complete the application process within the 30-day processing standard. If the State agency elects to deny a household immediately following a missed interview, as specified in § 273.2(e), the notice shall inform the household of its right and responsibility to contact the agency in order to reapply.

(iii) Notice of pending status. If the application is to be held pending because some action by the State is necessary to complete the application process, as specified in § 273 (h)(2) and (h)(3), the State agency shall include on the notice of pending status the date by which the household must provide the missing verification.

7. In § 273.11:

a. Paragraphs (a)(4)(ii)(A) and (a)(4)(ii)(C) are revised in their entirety.

b. Paragraph (b)(1)(ii) is revised.

The revisions read as follows:

§ 273.11 Action on households with special circumstances.

(a) Self-employment income. * * * (4) Allowable costs of producing self-employment income. * * *

(ii) (A) The purchase price or payments on the principal of loans for the purchase of capital assets, equipment, machinery, property or other durable goods;

(C) Money set aside for retirement purposes; Federal, State or local personal income taxes; personal business, entertainment and transportation expenses; and

(b) Boarders—(1) Household with boarders. * * *

(ii) Cost of doing business. In determining the income received from boarders, the State agency shall exclude that portion of the boarder payment which is a cost of doing business. To ascertain the cost of doing business, a State may use, in lieu of actual expenses, a flat amount or a fixed percentage of the gross income, provided that the method used is objective and justifiable, is stated in the State's Plan of Operation, manual, or directive and the result does not exceed 75% of the gross income from boarder-generated payments. However, if the applicant or recipient can show that the actual costs of doing business are higher than those resulting from application of the State's method, the State must use the higher amount. The cost of doing business shall not exceed the payment the household receives from the boarder for lodging and meals.

8. In § 273.12, introductory paragraph (a)(1) and paragraphs (a)(1)(i) are revised and (a)(2) is amended by adding a new sentence after the first sentence.

The revisions and addition read as follows:

§ 273.12 Reporting changes.

(a) Household responsibility to report.

(1) Certified and applicant households are required to report the following changes in circumstances:

(i) Changes in income: (A) Households with fluctuating income shall report changes in the source or in the wage rate of fluctuating income and changes in the numbers of hours worked by household members with fluctuating income;

(B) Households without fluctuating income shall report changes in the sources of income or in the amount of gross, monthly, non-fluctuating income of more than \$25;

(C) Households shall not be required to report changes in the public assistance grant, or in the general assistance grant in project areas where GA and food stamp cases are jointly processed in accordance with § 273.2(j)(2). Since the State agency has prior knowledge of all changes in the public assistance grant and general assistance grants, action shall be taken on the State agency information;

(2) * * * Applicant households that have not yet been certified when the change occurs shall report changes at the certification interview or, for changes occurring after the interview but before the eligibility determination,

within 10 days after the date of the determination. * * *

* * * * *

9. In § 273.13:

- a. Paragraph (a) is revised.
- b. Paragraph (b) is redesignated as paragraph (c).
- c. A new paragraph (b) is added.
- d. Newly redesignated introductory paragraph (c) is revised, paragraphs (c)(3) through (c)(13) are removed and a new paragraph (c)(3) is added.
- e. A new paragraph (d) is added.

§ 273.13 Notice of adverse action.

(a) *Use of notice.* (1) Prior to any action to reduce or terminate a household's benefits within the certification period, the State or local agency shall give a timely and adequate notice of adverse action, except as provided for in paragraphs (b), (c) and (d) of this section. An adequate notice for purposes of this section shall be a written notice that explains in easily understandable language: The proposed action; the reason for the proposed action; the specific regulations (either State or Federal citation) supporting such action, or a statement of the specific law requiring such action when changes in State or Federal law require automatic grant adjustments for classes of recipients; the household's right to request a fair hearing; and the circumstances under which assistance is continued if a hearing is requested; and, if the agency action is upheld, that any overissuances must be repaid. For the purpose of a monthly reporting retrospective budgeting system, the definition of "adequate notice" in § 271.2 shall apply.

(2) "Timely" is defined as the advance notice period set by the State agency for its PA caseload provided the notice is mailed at least 10 days before the date of action, i.e., the date upon which the action would become effective. Unless it waives its right, as discussed in § 273.15(k), the household shall receive continued benefits if it requests a fair hearing within 10 days after the timely notice is mailed. If the adverse notice period ends on a weekend or holiday and a request for a fair hearing and continuation of benefits is received the day after the weekend or holiday, the State agency shall consider the request received within the request period.

(b) *Exemptions from timely notice.* The agency shall send adequate notice as defined in paragraph (a)(1) of this section no later than the date of the action when:

(1) The agency receives a clear written statement signed by the household that it no longer wishes assistance or that gives information

which requires termination or reduction of assistance based solely upon the household's written information with these conditions:

(i) The household retains its right to a fair hearing;

(ii) The household retains its right to continued benefits by requesting a fair hearing within ten days of the date the notice was mailed; and

(iii) The State agency continues the household's previous benefit level, if required, within five working days of the household's request for a fair hearing.

(2) The household voluntarily requests in the presence of a caseworker that its participation be terminated. The household retains the rights listed in paragraphs (b)(1) (i) through (iii) of this section.

(3) The household's whereabouts are unknown and mail directed to it has been returned by the post office indicating no known forwarding address. The household's benefits must, however, be made available to it within five working days if its whereabouts become known during the payment period covered by a returned benefit. The household has a right to a fair hearing and continued benefits with this notice.

(c) *Exemptions from notice.* Under the following circumstances, a timely and adequate notice shall not be provided, although an informational notice may be provided:

* * * * *

(3) The State agency determines, based on reliable information, that the household has moved from the State or, if where a household may apply is limited, the jurisdiction or project area established by the State agency.

(d) *Specific notices.* Under the following circumstances a timely and adequate notice is not required. Rather, the notice specified for each circumstance shall be provided:

(1) The State agency has elected to assign a longer certification period to a household certified on an expedited basis and for which verification was postponed, provided the household has received written notice that the receipt of benefits beyond the month of application is contingent on its providing the verification which was initially postponed and that the State agency may act on the verified information without further notice as provided in § 273.2(i)(4).

(2) The State agency is converting a household from cash and/or food stamp coupon repayment to benefit reduction as a result of failure to make agreed upon repayment as discussed in § 273.18(g)(2)(ii).

(3) The State agency is terminating the eligibility of a resident of a drug or alcoholic treatment center or a group living arrangement if the facility loses either its certification from the appropriate agency or agencies of the State (as defined in § 271.2) or has its status as an authorized representative suspended due to FNS disqualifying it as a retailer. The notice requirements for these instances are discussed in § 273.11(e)(7) and (f)(6). However, residents of group living arrangements applying on their own behalf are still eligible to participate.

(4) The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of when the increased allotment would terminate.

(5) The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification, and the household was so notified at the time of certification.

(6) The household jointly applied for PA/GA and food stamp benefits and has been receiving food stamp benefits pending the approval of the PA/GA grant and was notified at the time of certification that food stamp benefits would be reduced upon approval of the PA/GA grant.

(7) A household member is disqualified for an intentional Program violation, in accordance with § 273.16, or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirements for individuals or households affected by intentional Program violation disqualification are explained in § 273.16.

(8) The State agency must change the household's benefits back to the original benefit level as required in § 273.12(c)(1)(iii).

10. In § 273.15, the first sentence of paragraph (b) and paragraph (q)(3)(ii) are revised.

The revisions read as follows:

§ 273.15 Fair hearings.

* * * * *

(b) *Hearing system.* Each State agency shall provide for either a fair hearing at the State level or for a hearing at the local level which permits the household to further appeal a local decision to a State level "de novo" hearing or State level review of the local level hearing.

* * *

* * * * *

(q) Hearing decisions * * ***(3) * * ***

(ii) After a local level hearing decision which upholds the State agency action, the household shall be notified of available appeal rights and that a reversal of the decision may result in the restoration of lost benefits to the household. A clear description of available appeal procedures must be included to enable the household to make an informed choice if it wishes to appeal.

* * * * *

11. In § 273.18, paragraph (d)(3) is amended by redesignating paragraphs (d)(3)(i) through (iii) as (d)(3)(iii) through (v), respectively and adding new paragraphs (d)(3)(i) and (d)(3)(ii) to read as follows:

§ 273.18 Claims against households.

* * * * *

(d) Collecting claims against households. * * *

(3) *Initiating collection on claims.* (i) The State agency shall take one of the following actions by the end of the quarter following the quarter in which the claim is first identified:

- (A) Recover the claim;
 - (B) Initiate action to locate and/or recover the claim from a former recipient;
 - (C) Execute a recovery agreement from a current recipient or initiate allotment reduction, if appropriate; or
 - (D) Initiate action to recover the claim from a current recipient if allotment reduction is not appropriate.
- (ii) Problems with meeting any of the deadlines in paragraph (3)(i) of this section shall be documented.

* * * * *

12. The authority citation for 45 CFR Parts 205 and 233 continues to read as follows:

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Part 205 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

13. Section 205.10 is amended by:
- a. Adding titles to paragraphs (a)(4), (a)(5), (a)(6), (a)(13), (a)(14) and (a)(15).
 - b. Revising paragraphs (a)(4)(i), (a)(4)(ii) and (a)(7). The introductory text of paragraph (a)(4) is republished.

The revisions and additions read as follows:

§ 205.10 Hearings.**(a) * * ***

(4) *Notice of adverse action.* In cases of intended action to discontinue, terminate, suspend or reduce assistance or to change the manner or form of payment to a protective, vendor, or two-party payment under § 234.60:

(i) The State or local agency shall give a timely and adequate notice of adverse action, except as provided for in paragraphs (a)(4) (ii), (iii) and (iv) of this section.

(A) An adequate notice shall be a written notice that explains in easily understandable language: The proposed action; the reason for the proposed action; the specific regulations supporting such action, and/or a statement of the specific law requiring such action when changes in State or Federal law require automatic grant adjustments for classes of recipients; the individual's right to request an evidentiary hearing (if provided) and a State agency hearing; the circumstances under which assistance is continued if a hearing is requested and, if the agency action is upheld, that such assistance must be repaid under title IV-A and must also be repaid under titles I, X, XIV or XVI (AABD) if the State plan provides for recovery of such payments.

(B) The notice of adverse action shall be considered timely if the notice is mailed at least 10 days before the date of action, i.e., the date upon which the action would become effective.

(ii) *Exemptions from timely notice.* The agency may dispense with timely notice but shall send an adequate notice of adverse action not later than the date of action when:

(A) The agency receives a clear written statement signed by a recipient that he no longer wishes assistance, or that gives information which requires termination or reduction of assistance based solely upon the recipient's written information, and the recipient has indicated, in writing, that he understands that this must be the consequence of supplying such information.

(B) The recipient orally voluntarily requests in the presence of an eligibility worker that assistance be terminated;

(C) The recipient's whereabouts are unknown and agency mail directed to him has been returned by the post office indicating no known forwarding address. The recipient's check must, however, be made available to him if his whereabouts become known during the payment period covered by a returned check;

(D) For AFDC, the agency takes action because of information the recipient furnished in a monthly report or because the recipient has failed to submit a

complete or a timely monthly report without good cause (See § 233.37);

(E) A recipient has been accepted for assistance in a new jurisdiction and that fact has been established by the jurisdiction previously providing assistance.

(F) A special allowance granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period;

(G) The agency has factual information confirming the death of a recipient or of the AFDC payee when there is no relative available to serve as new payee;

(H) The recipient has been admitted or committed to an institution, and further payments to that individual do not qualify for Federal financial participation under the State plan;

(I) The recipient has been placed in skilled nursing care, intermediate care or long-term hospitalization;

(J) The agency has made a presumption of mismanagement as a result of a recipient's nonpayment of rent and provides for post hearings in such circumstances.

(K) An AFDC child is removed from the home as a result of a judicial termination, or voluntarily placed in foster care by his legal guardian.

* * * * *

(5) Availability of hearings. * * ***(6) Continuation of assistance. * * ***

(7) *Reinstatement of assistance.* If a recipient requests a hearing after the date of the action:

(i) A State may, at its option, reinstate and continue assistance until the hearing decision, except as provided for in paragraphs (a)(6)(i)(A), (B) and (C) of this section, if:

(A) The recipient requests a hearing no more than 10 days after the date of action; or

(B) The recipient requests a hearing more than 10 days after the date of action but establishes good cause for failing to do so within the 10 days following the action. Good cause is limited to circumstances beyond the recipient's control, e.g., hospitalization, death in the family.

(ii) A State must reinstate and continue assistance, except as provided for in paragraphs (a)(6)(i)(B) and (C) of this section, if:

(A) The action was taken without timely notice;

(B) The recipient requests a hearing within 10 days of the mailing of the notice of the action; and

(C) The agency determines that the action resulted from other than the

application of State or Federal law or policy or a change in State or Federal law.

(13) *Hearing process rights.* * * *

(14) *Hearing record.* * * *

(15) *Hearing decisions.* * * *

14. Section 205.52 is amended by designating paragraph (a)(2) as (a)(2)(i) and by adding new paragraphs (a)(2)(ii) and (iii) to read as follows:

§ 205.52 Furnishing of social security numbers.

(a) * * *

(2) * * *

(ii) If the applicant or recipient has been unable to complete the application for an SSN because the necessary documentation is not immediately available, the State agency will determine whether or not good cause exists for failure to comply with paragraph (a)(2)(i) of this section. If the State agency determines that good cause exists, and the applicant is otherwise eligible, the individual will be eligible for assistance for a period of no longer than four months. If the applicant has been unable to obtain the documents required to complete the SSN application, the State agency's eligibility worker should make every effort to assist the individual in obtaining these documents. Good cause for failure to apply must be shown monthly during the four-month period in order for the individual to continue to receive assistance. The State agency must maintain documentation of the good cause determination in the case file.

(iii) Good cause exists if the applicant or recipient has made every effort to supply the Social Security Administration with the necessary information and does not include delays due to factors such as illness, lack of transportation or temporary absence, because the Social Security Administration makes provisions for mail-in applications in lieu of applying in person.

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Part 233 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

15. Section 233.20 is amended by:

a. Revising paragraphs (a)(3)(ii)(D), (a)(3)(iii), and (a)(6)(v)(B).

b. Adding a new paragraph

(a)(6)(v)(C).

The additions and revisions read as follows:

§ 233.20 Need and amount of assistance.

(a) * * *

(3) * * *

(ii) * * *

(D) Income, after application of disregards, except as provided in paragraph (a)(3)(xiii) of this section, and resources available for current use shall be considered. To the extent not inconsistent with any other provision of this chapter, income and resources are considered available both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance. The entire value of an available jointly-held resource will be counted as a resource to an applicant or recipient unless State law prohibits noncontributory signatories from withdrawing funds from or liquidating such assets for their own benefit.

(iii) States may prorate income received by individuals employed on a contractual basis over the period of the contract or may prorate intermittent income received quarterly, semiannually, or yearly over the period covered by the income. States may elect to prorate over a 12-month period income received by individuals who because of a contract or self-employment derive their income in a period of time shorter than one year. States may elect to periodically average monthly interest income. In OAA, AB, APTD and AABD, they may use the prorated or averaged amount to determine need under § 233.23 and the amount of the assistance payment under §§ 233.24 and 233.25. In AFDC, they may use the prorated or averaged amount to determine need under § 233.33 and the amount of the assistance payment under §§ 233.34 and 233.35.

(6) * * *

(v) * * *

(B) For AFDC, with respect to self-employment, the term "earned income" means the total profit from a business enterprise, farming, etc., resulting from a comparison of the gross receipts with

the "business expenses," i.e., expenses directly related to producing the goods or services and without which the goods or services could not be produced. However, the following items shall not be considered as business expenses: Depreciation; the purchase price or payments on the principal of loans for the purchase of capital assets, equipment, machinery or other durable goods; net losses from previous periods; money set aside for retirement purposes; Federal, State or local personal income taxes; personal business, entertainment and transportation expenses.

(C) For OAA, AB, APTD, AABD and AFDC income derived from providing room and board, a State may use, in lieu of actual expenses, a flat amount or a fixed percentage of the gross income to determine the business expense, provided that the amount or percentage used is objective and justifiable and the result does not exceed 75% of the gross boarder-generated income. However, if the applicant or recipient can show that the actual expenses of producing the income are higher than those resulting from the application of the State's method, the State must use the higher amount.

16. Section 233.31 is amended by revising paragraph (b)(1) to read as follows:

§ 233.31 Budgeting methods for AFDC.

(b) * * *

(1) "Prospective budgeting" means that the agency shall determine eligibility and compute the amount of assistance based on its best estimate of income and circumstances which will exist in that month. This estimate shall be based on the agency's reasonable expectation and knowledge of current, past or future circumstances, and may be derived by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15 (or reasonably equivalent fractions).

Date: September 22, 1987.

Richard E. Lyng,

Secretary of Agriculture.

Date: September 23, 1987.

Otis M. Bowen,

Secretary of Health and Human Services.

[FR Doc. 87-22365 Filed 9-28-87; 8:45 am]

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S.J. Res. 22/Pub. L. 100-115

To designate the period commencing September 21, 1987, and ending September 27, 1987, as "National Historically Black Colleges Week." (Sept. 24, 1987; 101 Stat. 749; 1 page) Price: \$1.00