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Contents

Federal Register
Vol. 52, No. 249
Tuesday, December 29, 1987

Agricultural Marketing Service
See Packers and Stockyards Administration

Agriculture Department
See Animal and Plant Health Inspection Service; Commodity Credit Corporation; Food and Nutrition Service; Packers and Stockyards Administration

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
Commercial bird quarantine stations; agreements with privately owned facilities, 48968
PROPOSED RULES
Livestock and poultry disease control:
Brucellosis, 49029
Plant-related quarantine, foreign:
Apples, peaches, and citrus from Sonora, 49026

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
National Retail Credit Association et al., 49095

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Coast Guard
RULES
Drawbridge operations:
North Carolina, 49010
PROPOSED RULES
Drawbridge operations:
Washington, DC, 49031

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration; National Telecommunications and Information Administration
NOTICES
Agency information collection activities under OMB review, 49056
Export privileges, actions affecting; appeals, etc.:
Tadmor, Dan Peter, 49057

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Brazil, 49061, 49062
(2 documents)
China, 49060, 49063
(2 documents)
Trinidad and Tobago, 49060
Yugoslavia, 49064

Commodity Credit Corporation
PROPOSED RULES
Delinquent debts; interest, 49028

Commodity Futures Trading Commission
RULES
Self-regulatory organization governing members; nonpublic information disclosure, 48974

Consumer Product Safety Commission
RULES
Organization, functions, and authority delegations:
Program Management and Budget Office et al., 48969

Copyright Royalty Tribunal
RULES
Noncommercial broadcasting royalty adjustment rates, 49010

Counsel to the President
NOTICES
Presidential Task Force on Market Mechanisms; financial conflict of interests waiver for members, 49119

Defense Department
See also Navy Department
RULES
Personnel:
Uniform reserve, training and retirement categories, 48998

Economic Regulatory Administration
NOTICES
Natural gas exportation and importation:
Bishop Pipeline Corp., Inc., 49065

Education Department
PROPOSED RULES
Postsecondary education:
Foreign periodicals program, 49122

Employment and Training Administration
NOTICES
Adjustment assistance:
AT&T Information Systems et al., 49096
Beaumont Co. et al., 49097
General Motors Corp., 49098
GTE Communication Systems Corp. et al., 49098

Energy Department
See Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department

Energy Information Administration
NOTICES
Agency information collection activities under OMB review, 49066

Environmental Protection Agency
NOTICES
Hazardous waste:
Solid waste disposal; municipal waste combustor ash and leachates; report availability, 49080
Meetings:
Science Advisory Board, 49082

Water pollution control:
Disposal site determinations—
Santa Ysabel Creek, San Diego County, CA, 49082

Equal Employment Opportunity Commission
RULES
Employment discrimination:
Charges; designation of State and local fair employment practices agencies (706 agencies)—
Louisville and Jefferson County Human Relations Commission, 48998

Executive Office of the President
See Counsel to the President; Presidential Documents Trade Representative, Office of United States

Federal Communications Commission
PROPOSED RULES
Practice and procedure:
FM booster stations; radio frequency radiation compliance, 49032

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 49110
(2 documents)

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
Pipelines; interstate transportation of gas for others; effect of partial wellhead decontrol, 48986
NOTICES
Natural gas companies:
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (TXO Production Corp., et al.), 49066
Applications, hearings, determinations, etc.:
Arkla Energy Resources, 49067
Eastern Shore Natural Gas Co., 49068
Granite State Gas Transmission, Inc., 49068
Pacific Gas Transmission Co., 49069

Federal Maritime Commission
NOTICES
Rulemaking petitions:
Waterfront Rail Truckers Union; truck detention charges at west coast ports, 49086

Federal Reserve System
NOTICES
Agency information collection activities under OMB review, 49086
Electronic fund transfers:
Large-dollar wire transfer systems—
Automated clearing house transactions, 49086
Meetings; Sunshine Act, 49110
Applications, hearings, determinations, etc.:
Bank of Nova Scotia, 49089

Federal Retirement Thrift Investment Board
NOTICES
Meetings:
Employee Thrift Advisory Council, 49090

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 49091

Food and Drug Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
Veterinary Medicine Advisory Committee; nominations, 49090
Food additive petitions:
University of California (Davis Campus), 49090

Food and Nutrition Service
RULES
Child nutrition programs:
Child care food program—
Key element reporting system, 48967
NOTICES
Food stamp program
Thrifty food plan and deductions, 49055

Health and Human Services Department
See Food and Drug Administration

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
Cases filed, 49069
(2 documents)
Decisions and orders, 49071, 49074, 49077
(3 documents)

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Income taxes:
Partnerships; taxable years, 48994
PROPOSED RULES
Income taxes:
Partnerships; taxable years; cross-reference, 49030

International Broadcasting Board
NOTICES
Senior Executive Service:
Performance Review Board; membership, 49056

International Trade Administration
NOTICES
National security investigations:
Crude oil and refined petroleum products, 49059

International Trade Commission
RULES
Practice and procedure:
Commission change of address, 48994

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Emons Holdings, Inc., 49094
Genesee & Wyoming Industries, Inc., et al., 49094
Railroad services abandonment:
CSX Transportation, Inc., 49095

Justice Department
See also Antitrust Division
RULES
Organization, functions, and authority delegations:
Executive Office for Immigration Review
Correction, 48997

Labor Department
See also Employment and Training Administration
NOTICES
Agency information collection activities under OMB review, 49096

Land Management Bureau
RULES
Land resource management:
Leases, permits and easements, etc.; action for unauthorized use, 49114

National Foundation on the Arts and the Humanities
NOTICES
Agency information collection activities under OMB review, 49099

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment—
Sealed beam headlamps, 49038
Motor vehicles safety standards:
Vehicle rollover resistance; petition denied, 49033

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic surf clam and ocean quahog, 49019
Gulf of Alaska, Bering Sea and Aleutian Islands groundfish, 49021
Ocean salmon off coasts of Washington, Oregon, and California, 49019
Pacific Salmon Commisson:
Fraser River sockeye and pink salmon, 49017
NOTICES
Rulemaking petitions:
GreenWorld; whale watching permit regulations, 49059

National Park Service
NOTICES
Concession contract negotiations:
Ken Direction Corp., Inc., 49091
Land and water conservation fund:
Sheltering of recreational facilities assisted lands, 49091
Meetings:
Cape Cod National Seashore Advisory Commission, 49092
National Register of Historic Places:
Pending nominations—
Alabama et al., 49092

National Science Foundation
NOTICES
Meetings:
Graduate Fellowship Program Review Committee, 49099
Systematic Biology Advisory Panel, 49099
Women, Minorities, and Handicapped in Science and Technology Task Force, 49100

National Telecommunications and Information Administration
RULES
Federal Radio Frequency Management, Manual of Regulations and Procedures; incorporation by reference, 49015

Navy Department
NOTICES
Meetings:
Naval Research Advisory Committee, 49065

Nuclear Regulatory Commission
NOTICES
Organization, functions, and authority delegations:
NRC Headquarters offices relocation, 49100
Applications, hearings, determinations, etc.:
Commonwealth Edison Co., 49100

Office of United States Trade Representative
See Trade Representative, Office of United States

Packers and Stockyards Administration
NOTICES
Central filing system; State certifications:
Oklahoma, 49056

Peace Corps
NOTICES
Agency information collection activities under OMB review, 49102
(2 documents)

Personnel Management Office
PROPOSED RULES
Employment:
Candidates for appointment; selection procedures, 49023

Postal Service
RULES
Organization and administration:
Miscellaneous organizational changes
Correction, 49015

Presidential Documents
PROCLAMATIONS
Generalized System of Preferences:
Amendments (Proc. 5754), 48959
Special observances:
Day of Excellence, National (Proc. 5757), 48965
Skiing Day, National (Proc. 5756), 48963
Year of New Sweden (Proc. 5755), 48961
ADMINISTRATIVE ORDERS
Presidential Task Force on Market Mechanisms; financial conflict of interests waiver for members (Memorandum of December 23, 1987), 49118

Public Health Service
See Food and Drug Administration

Research and Special Programs Administration
NOTICES
Hazardous materials:
Inconsistency rulings, etc.—
California, 49107
New York; correction, 49107

Securities and Exchange Commission
RULES
Public utility holding companies:
Registered holding company system guarantees, joint liability, surety or indemnitor obligations; declaration requirement exemptions, 48985
Securities:
Proxy rules; filing requirements, shareholder proposals, etc., 48977
NOTICES
Self-regulatory organizations; unlisted trading privileges:
Midwest Stock Exchange, Inc., 49102
Philadelphia Stock Exchange, Inc., 49103
Applications, hearings, determinations, etc.:
Guidance Investments, Inc., 49103
Harley-Davidson, Inc., 49104
Johnston Industries, Inc., 49104
Lomas Mortgage Funding Corp. II, 49104

State Department
NOTICES
United Nations War Crimes Commission records; guidelines for access, 49106

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission:
North Dakota, 49031

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
China; Tariff Schedule adjustment for imports of tungsten, 49127

Transportation Department
See also Coast Guard; National Highway Traffic Safety Administration; Research and Special Programs Administration
RULES
Aviation proceedings:
Airline service quality performance, 48969

Treasury Department
See also Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 49108, 49109
(5 documents)

Veterans Administration
RULES
Acquisition regulations
Competition in contracting, etc., 49016

Separate Parts In This Issue

Part II
Department of the Interior, Bureau of Land Management, 49114

Part III
The President, Counsel to the President, 49118

Part IV
Department of Education, 49122

Part V
Office of the United States Trade Representative, 49127

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Memorandums:
Dec. 23, 1987 49118
Proclamations:
5754 48959
5755 48961
5756 48963
5757 48965

5 CFR
Proposed Rules:
302 49023
333 49023

7 CFR
226 48967
Proposed Rules:
319 49026
1403 49028

9 CFR
92 48968
Proposed Rules:
51 49029

14 CFR
234 48969

16 CFR
1000 48969

17 CFR
1 48974
229 48977
240 48977
250 48985
270 48977

18 CFR
284 48986

19 CFR
201 48994
212 48994
213 48994

26 CFR
1 48994
602 48994
Proposed Rules:
1 49030

28 CFR
0 48997
68 48997

29 CFR
1601 48998

30 CFR
Proposed Rules:
934 49031

32 CFR
102 48998

33 CFR
117 49010
Proposed Rules:
117 49031

34 CFR
Proposed Rules:
671 49122

37 CFR
304 49010

39 CFR
224 49015

43 CFR
2920 49114
9260 49114

47 CFR
300 49015
Proposed Rules:
1 49032

48 CFR
801 49016
814 49016
815 49016
833 49016
836 49016
842 49016
852 49016

49 CFR
Proposed Rules:
571 (2 documents) 49033, 49038
575 49038

50 CFR
371 49017
652 49019
661 49019
672 49021
675 49021

Federal Register
Vol. 52, No. 249
Tuesday, December 29, 1987

Presidential Documents

Title 3—

The President

Proclamation 5754 of December 23, 1987

Amending the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to section 504(a)(1) of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2464(a)(1)), the President may withdraw, suspend, or limit the application of the duty-free treatment afforded under the Generalized System of Preferences (GSP) with respect to any article or any country upon consideration of the factors set forth in sections 501 and 502(c) of the Trade Act (19 U.S.C. 2461 and 2462(c)). Accordingly, after taking into account the factors set forth in section 501 of the Trade Act, I have determined that it is appropriate to withdraw the duty-free treatment afforded under the GSP to imports from all designated beneficiary developing countries of molybdenum ore and metal-bearing materials in chief value of molybdenum, provided for in items 601.33 and 603.40, respectively, of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202).

2. Section 604 of the Trade Act authorizes the President to embody in the TSUS the substance of the relevant provisions of that Act, of other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States of America, including but not limited to sections 501, 504(a)(1), and 604 of the Trade Act, do proclaim that:

(1) In order to withdraw the duty-free treatment afforded under the GSP to certain articles, TSUS items 601.33 and 603.40 are modified by deleting from each item the symbol "A," appearing in parentheses in the Rates of Duty Special column.

(2) The modifications to the TSUS made by paragraph (1) of this Proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after the second day after the publication of this Proclamation in the **Federal Register.**

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of December, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-29797
Filed 12-24-87; 9:26 am]
Billing code 3195-01-M

Editorial note: For the text of the President's letter to the Speaker of the House of Representatives and the President of the Senate, dated Dec. 23, reporting the actions, see the *Weekly Compilation of Presidential Documents* (vol. 23, no. 51).

Presidential Documents

Proclamation 5755 of December 23, 1987

Year of New Sweden, 1988

By the President of the United States of America

A Proclamation

The year 1988 is the 350th anniversary of the arrival, in what is now Delaware, of two ships, the *Kalmar Nyckel* and the *Fogel Grip,* which were sent by the Kingdom of Sweden to establish New Sweden, the first permanent settlement of Swedes in North America. Celebration of this occasion gives every American the opportunity to pay tribute to those courageous colonists and to all who have followed them from Sweden to America.

Swedish Americans have won a place in the history and heritage of the United States, and they continue their tradition of notable achievements today. Two Swedish Americans associated prominently with the American Revolution were John Morton of Pennsylvania, a signer of the Declaration of Independence, and John Hanson of Maryland, who presided over the Continental Congress in 1781 and 1782. More than a million Swedes came to the United States between 1845 and 1910, and more than four million Americans today have Swedish ancestry.

We can all be truly proud of the contributions of Swedish Americans to our beloved land, of the close ties between the United States and Sweden over the years, and of the devotion to democracy that our peoples share.

The Congress, by Public Law 99–304, has designated 1988 as the "Year of New Sweden" and has authorized and requested the President to issue a proclamation in observance of this year.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim 1988 as the Year of New Sweden. I call upon the Governors of the several States, local officials, and the people of the United States to observe this year with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of December, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-29807
Filed 12-24-87; 9:27 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5756 of December 23, 1987

National Skiing Day, 1988

By the President of the United States of America

A Proclamation

National Skiing Day gives all Americans the opportunity to celebrate the continuing role of skiing in recreation, sports, and our economy, as well as its place in American life and lore.

Many Americans first discovered both the potential uses and the attractions of skiing from reports of the achievements of an early skier, pioneer mail carrier John A. "Snowshoe" Thompson, who transported letters and parcels in a backpack as he covered his 90-mile territory through the Sierra Nevada. During his two decades of devoted service, 1856–1876, he won a well-earned reputation for heroism and faithfulness as he traversed the mountains, first on his large, handmade skis and later by sleigh, to keep frontier communication open between Nevada and California.

Since then, other dedicated Americans have employed skiing in the defense of our country, in rescue operations, and in similar activities.

Through the years, skiing has experienced revolutions in equipment, technique, and participation. Wood skis were replaced by metal ones, which then gave way to fiberglass, and bindings have improved greatly. Today some 15 million Americans engage in Alpine or Nordic skiing, and highly skilled and dedicated skiers and biathletes vie for coveted positions on America's Winter Olympics squads.

Skiing, of course, offers many benefits. In the areas of health and fitness, Alpine skiing's courses improve strength and flexibility, and Nordic skiing's cross-country trails build endurance. Skiing helps people improve coordination as they attain or maintain good physical condition. Skiing provides enjoyment for spectators as well as participants, fosters appreciation for the outdoors, and affords the opportunity to enjoy winter and its splendors. Skiing also increases the recreational uses of national forests and provides winter employment and income for residents of rural communities.

In recognition of skiing and its benefits, the Congress, by Public Law 100–189, has designated January 8, 1988, as "National Skiing Day" and has authorized and requested the President to issue a proclamation in observance of that day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim January 8, 1988, as National Skiing Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of December, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-29808
Filed 12-24-87; 9:28 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5757 of December 23, 1987

National Day of Excellence, 1988

By the President of the United States of America

A Proclamation

Theodore Roosevelt once said: "The foundation stone of national life is and ever must be the individual character of the individual citizen." Nowhere has that fact been better demonstrated than in our national quest for excellence, which has spurred Americans to strive to live up to the highest ideals of our nature and our heritage.

For three decades, that quest has been best symbolized by the magnificent achievements of our space program. The program has proved beyond a doubt that, with will and resolve, Americans can draw upon the insights and inventions of generations past and accomplish great things. In striving for excellence in space, we have expanded the horizon of human potential, brought countless scientific and economic benefits back to Earth, and demonstrated to ourselves and to the world our national vitality, courage, and imagination.

Through the years, the space program has had brilliant successes—but also some disheartening setbacks. On January 28, 1988, the second anniversary of the Space Shuttle CHALLENGER accident, we remember CHALLENGER's courageous crew and other space pioneers who made the supreme sacrifice in the pursuit of excellence—in technology, in goals, in achievement, and in their personal lives.

Their sacrifice was not in vain. For they taught us, above all, that our national quest for excellence must never end if we are to remain a great nation.

When the space shuttle is launched again, the world will know that, once again, the United States is back in space—ready to accept its boundless challenges and eager to pursue its countless opportunities. With the shuttle, we will move toward our next logical step—building and operating a permanently manned space station.

To recognize the importance of space to our future and to honor our space pioneers, especially those who made the ultimate sacrifice in the cause of excellence, the Congress, by Public Law 100-190, has designated January 28, 1988, as a "National Day of Excellence" and authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim January 28, 1988, as a National Day of Excellence. I call upon the people of the United States to observe this day with appropriate ceremonies and activities and to pursue, in the course of their regular activities, the spirit of excellence represented by the crew of the CHALLENGER.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of December, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-29809
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Rules and Regulations

Federal Register
Vol. 52, No. 249
Tuesday, December 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.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Key Element Reporting System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule extends the data collection period for the Key Element Reporting System (KERS) in the Child Care Food Program (CCFP) until June 30, 1988. Extension of the data collection is necessary because of delays in the clearance and distribution of the KERS forms which reduced the originally established data collection period by six months. This extension will provide the Department with the 13-month data collection period which was originally envisioned as necessary to provide a comprehensive assessment of KERS in its current form.

EFFECTIVE DATE: January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Lou Pastura, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, 3101 Park Center Drive, Room 509, Alexandria, Virginia 22302 or by phone at (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This final rule is effective January 1, 1988. Implementation of this regulation on January 1 is necessary to ensure the continuity of the data collection which it governs. For this reason, the Administrator of the Food and Nutrition Service has determined in accordance with 5 U.S.C. 553(d) that good cause exists for making this rule effective less than 30 days after publication.

The action has been reviewed under Executive Order 12291 and has been classified as not major because it will have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, and will not have 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 foreign markets.

This regulation has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Pursuant to the review, the Administrator of the Food and Nutrition Service has certified that this final rule will not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in this final rule have been approved by the Office of Management and Budget under clearance 0584-0055.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.558 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

Background

On September 3, 1986, the Department published a final rule governing the implementation of the Key Element Reporting System (KERS) in the Child Care Food Program (CCFP) at 51 FR 31313. That final rule established a KERS date collection period which was to have begun on December 1, 1986 and continued through December 31, 1987. However, because the clearance and distribution of data collection forms took longer than expected, the collection period envisioned in the KERS rule was delayed and actual data collection did not begin until approximately June 1, 1987. Because the Department believed that a full 13-month data collection period was necessary to provide an accurate assessment of KERS, the Department issued a proposed rule on September 17, 1987 (52 FR 35105) to extend the data collection period by six months (until June 30, 1988) to compensate for the time lost.

During the official comment period on the proposed rule, the Department received nine comments, all of which were submitted by State agencies. Six of the nine comments were opposed to the extension, while three essentially supported it. Generally speaking, those comments which opposed the extension did so on the grounds that KERS was being implemented inconsistently from State to State. For the most part, they blamed this on the data collection form being used and the guidance provided. They suggested that this inconsistency could result in the reporting of invalid data. They further suggested that the development of program performance standards using invalid data could undermine the usefulness of those standards.

All of the substantive concerns expressed by these six commenters were reflected in comments provided to the Department on the proposed KERS rule published on January 29, 1986 (51 FR 3603). The preamble to the final KERS rule contained the Department's response to these concerns. Specifically, the Department acknowledged the possibility that some element of subjectivity could exist in KERS, as in all other review systems. However, the Department contended (and continues to contend) that most of the important aspects of the CCFP can be reasonably and consistently quantified. This would apply particularly to the most significant areas of program accountability such as compliance with meal pattern requirements, free and reduced price application procedures and recordkeeping requirements.

This final rule contains one minor change from the amendatory language continued in the proposed extension rule. In that rule, the Department proposed to extend the data collection period *until* June 30, 1988. This date was used incorrectly since it would limit the reporting of data to that collected prior to June 30. In order to collect the data for the entire six-month period envisioned in that rule, a July 1, 1988 date should have been used. Therefore, based on the foregoing, the Department is extending the KERS data collection to the period prior to July 1, 1988.

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—Health, Infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, Part 226 is amended as follows:

PART 226—CHILD CARE FOOD PROGRAM

1. Authority citation for Part 226 is revised to read as follows:

Authority: Secs. 323, 326 and 361, Pub. L. 99-500 and 99-591, 100 Stat. 1783 and 3341 (42 U.S.C. 1758, 1760 and 1766); secs. 803, 810 and 820, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758, 1766); sec. 2, Pub. L. 95-627, 92 Stat. 3603 (42 U.S.C. 1766); sec. 10, Pub. L. 89-642, 80 Stat. 889 (42 U.S.C. 1779), unless otherwise noted.

§ 226.6 [Amended]

2. In § 226.6, paragraph (o) is amended by removing the date "January 1, 1988" and adding in its place "July 1, 1988".

Dated: December 23, 1987.

George A. Braley,

Acting Administrator.

[FR Doc. 87-22794 Filed 12-28-87; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 87-117]

Agreements With Owners of Privately Owned Commercial Bird Quarantine Stations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations on bird importations by requiring the signature of the Administrator of the Animal and Plant Health Inspection Service (APHIS) on Cooperative and Trust Fund Agreements between APHIS and privately owned commercial bird quarantine facilities. Before the publication of this document, the regulations required the Acting Administrator of APHIS to sign these agreements.

EFFECTIVE DATE: December 29, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Senior Staff Veterinarian, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 809, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR Part 92 (referred to below as the regulations) govern, among other things, the importation of birds into the United States. Section 92.11(f) sets forth quarantine requirements to prevent introduction of communicable poultry diseases into the United States; paragraph (f)(7) of this section requires the creation of a Cooperative and Trust Fund Agreement between APHIS and the operators of each approved quarantine facility for the importation of birds.

The responsibility for signing these agreements lies with the Acting Administrator of APHIS. Since there is no Acting Administrator, we are amending the regulations to authorize the Administrator of APHIS to sign the agreements.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Changing the signature authority on Cooperative and Trust Fund Agreements will have no effect on importers or quarantine facility operators.

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

Effective Date

Determining who in the Agency signs Cooperative and Trust Fund Agreements is the responsibility of the Agency. Because this matter deals with internal agency procedures, neither a general notice of proposed rulemaking nor a 30-day delay in effective date is required under the administrative procedure provisions of 5 U.S.C. 553. Accordingly, this regulation is effective upon publication.

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, 9 CFR Part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for Part 92 is revised to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306, 21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.11 [Amended]

2. Paragraph (f)(7)(iii)(C)(5) of § 92.11 is amended by removing "Acting Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture" and inserting "Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture".

Done in Washington, DC, this 22nd day of December, 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87-29716 Filed 12-28-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 234

[Docket No. 44827; Amdt. No. 234-4]

Airline Service Quality Performance; Editorial Amendment

AGENCY: Department of Transportation/ Office of the Secretary.

ACTION: Final rule; editorial amendment.

SUMMARY: Under a rule issued September 2, 1987, the Department of Transportation (DOT or Department) required 14 air carriers to submit certain flight data to the Department for public dissemination, and to vendors of computerized reservations systems (CRS) for incorporation into their CRS system displays. This amendment makes a minor editorial change to the rule.

EFFECTIVE DATE: December 29, 1987.

FOR FURTHER INFORMATION CONTACT: Gwyneth Radloff, at 400 7th Street SW., Washington, DC 20590 or by phone at (202) 366-9307.

SUPPLEMENTARY INFORMATION: On September 2, 1987, the Department issued a final rule that required 14 air carriers to submit certain data to the Department and to CRS vendors. In addition, these carriers were required to provide on-time performance data to consumers, upon request to the carriers' ticketing agents.

This amendment adds a phrase found in earlier sections that was omitted from § 234.6, which requires participating carriers to report baggage statistics. The phrase clarifies the requirement that the participating carriers comply with Reporting Directives issued by the Department's Office of Aviation Information Management.

Because this is an editorial change, the Department finds, under sections 553 (b)(3)(B) and (d)(2) of the Administrative Procedure Act, that notice and comment are not necessary and that this amendment may be made effective immediately upon publication. This action is taken under authority delegated to the General Counsel under 14 CFR 1.57(1).

List of Subjects in 14 CFR Part 234

Advertising, Air carriers, Consumer protection, Reporting requirements, Travel agents.

Issued in Washington, DC on December 22, 1987.

B. Wayne Vance,

General Counsel.

For the reasons set forth in the preamble, the Department amends Title 14, Chapter II, Subchapter A of the Code of Federal Regulations as follows:

PART 234—AIRLINE SERVICE QUALITY PERFORMANCE REPORTS

1. The authority for Part 234 continues to read as follows:

Authority: 49 U.S.C. 1302, 1324, 1374, 1377 and 1381; 5 U.S.C. § 553(e) and 14 CFR § 302.38.

2. Section 234.6 is revised to read as follows:

§ 234.6 Baggage-handling statistics.

Each reporting carrier shall report monthly to the Department on a domestic system basis, excluding charter flights, the total number of passengers enplaned systemwide, and the total number of mishandled-baggage reports filed with that carrier. The information shall be submitted to the Department within 15 days of the end of the month to which it applies and must be submitted with the transmittal letter accompanying the data for on-time performance in the form and manner set forth in the reporting directives issued by the Director, OAIM.

[FR Doc. 87-29714 Filed 12-28-87; 8:45 am]

BILLING CODE 4910-62-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Organization, Functions, and Authority Delegations; Program Management and Budget Office et al.

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is amending its statement of organization and functions to reflect organizational changes made since the changes published December 24, 1986, 50 FR 52440. The changes are the consolidation of the functions of the former Officer of Program Management and the former Office of Budget, Program Planning and Evaluation into a new Office of Program Management and Budget and a new Office of Planning and Evaluation; the consolidation of the Commission's downtown Washington, DC offices into its Bethesda, Maryland facilities; the reorganization of the former five Regional Offices into three Regional Centers; the elimination of the Commission's Toxicological Advisory Board; additional responsibilities in the Office of the Secretary with respect to the Flammable Fabrics Act; transfer of the Commission's human factors staff from the Directorate for Engineering Sciences to the Directorate for Epidemiology; and elimination of the Office of Administrative Law Judge. Editorial revisions have also been made in the descriptions of several organizations.

EFFECTIVE DATE: December 29, 1987.

ADDRESSES: Consumer Product Safety Commission, Office of the Secretary, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207, telephone 301-492-6980.

SUPPLEMENTARY INFORMATION: Since this rule relates solely to internal agency management, pursuant to 5 U.S.C. 553(b), notice and other public procedures are not required and it is effective immediately upon publication in the **Federal Register.** Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612, and, thus, is exempt from the provisions of the Act.

List of Subject for 16 CFR Part 1000

Organization and Functions (Government Agencies).

Dated: December 16, 1987.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Accordingly, Part 1000 is revised to read as follows:

PART 1000—COMMISSION ORGANIZATION AND FUNCTIONS

Sec.

1000.1 The Commission.
1000.2 Laws administered.
1000.3 Hotline.
1000.4 Commission addresses.
1000.5 Petitions.
1000.6 Commission decisions and records.
1000.7 Advisory opinions and interpretations of regulations.
1000.8 Meetings and hearings; public notice.
1000.9 Quorum.
1000.10 The Chairman and Vice Chairman
1000.11 Delegation of functions.
1000.12 Organizational structure.
1000.13 Directives system.
1000.14 Office of the General Counsel.
1000.15 Office of Congressional Relations.
1000.16 Office of Media Relations.
1000.17 Office of the Secretary.
1000.18 Office of Internal Audit.

Sec.
1000.19 Office of Equal Employment Opportunity and Minority Enterprise.
1000.20 Office of the Executive Director.
1000.21 Office of Program Management and Budget.
1000.22 Office of Planning and Evaluation.
1000.23 Office of Information and Public Affairs.
1000.24 Directorate for Epidemiology.
1000.25 Directorate for Economic Analysis.
1000.26 Directorate for Engineering Sciences.
1000.27 Directorate for Health Sciences.
1000.28 Directorate for Compliance and Administrative Litigation.
1000.29 Directorate for Administration.
1000.30 Directorate for Field Operations.

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

§ 1000.1 The Commission.

(a) The Consumer Product Safety Commission is an independent regulatory agency which was formed on May 14, 1973, under the provisions of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1207, as amended (15 U.S.C. 2051, *et seq.*)). The purposes of the Commission under the CPSA are:

(1) To protect the public against unreasonable risks of injury associated with consumer products;

(2) To assist consumers in evaluating the comparative safety of consumer products;

(3) To develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) To promote research and investigation into the causes and prevention of product-related deaths, illnesses and injuries.

(b) The Commission is composed of five members, appointed by the President, by and with the advice and consent of the Senate, for terms of seven years.

1000.2 Laws administered.

The Commission administers five acts: (a) The Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1207, as amended (15 U.S.C. 2051, *et seq.*)).

(b) The Flammable Fabrics Act (Pub. L. 90-189, 67 State. 111, as amended (15 U.S.C. 1191, *et seq.*)).

(c) The Federal Hazardous Substances Act (Pub. L. 86-613, 74 Stat. 380, as amended (15 U.S.C 1261, *et seq.*)).

(d) The Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, 84 Stat. 1670, as amended (15 U.S.C.1471, *et seq.*)).

(e) The Refrigerator Safety Act of 1956 (Pub. L. 84-930, 70 Stat. 953, 15 U.S.C. 1211, *et seq.*)).

§ 1000.3 Hotline.

(a) The Commission operates a toll-free telephone Hotline by which the public can communicate with the Commission. The number for use in all 50 states is 1-800-638-CPSC (1-800-638-2772).

(b) The Commission also operates a toll-free Hotline by which deaf or speech-impaired persons can communicate by teletypewriter with the Commission. The teletypewriter number for use in all states except Maryland is 1-800-638-8270. The teletypewriter number for use in Maryland is 1-800-492-8104.

§ 1000.4 Commission addresses.

(a) The principal offices of the Commission are at 5401 Westbard Avenue, Bethesda, Maryland. All written communications with the Commission should be addressed to the Consumer Product Safety Commission, Washington, DC 20207, unless otherwise specifically directed.

(b) The Commission has 3 Regional Centers which are located at the following addresses and which serve the sates indicated:

(1) Central Regional Center, 230 South Dearborn St., Room 2944, Chicago, Illinois 60604; Alabama, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, and Wisconsin.

(2) Eastern Regional Center, 6 World Trade Center, Vesey Street, Room 301, New York, New York 10048; Connecticut, Delaware, District of Columbia, Florida, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and Virgin Islands.

(3) Western Regional Center, U.S. Customs House, 555 Battery St., Room 401, San Francisco, California 94111; Alaska, American Samoa, Arizona, Arkansas, California, Colorado, Guam, Hawaii, Idaho, Louisiana, Montana Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming.

§ 1000.5 Petitions.

Any interested person may petition the Commission to issue, amend, or revoke a rule or regulation by submitting a written request to the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

§ 1000.6 Commission decisions and records.

(a) Each decision of the Commission, acting in an official capacity as a collegial body, is recorded in Minutes of Commission meetings or as a separate Record of Commission action. Copies of Minutes or of a Record of Commission action may be obtained upon written request from the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or may be examined in the public reading room at Commission headquarters. Requests should identify the subject matter of the Commission action and the approximate date of the Commission action, if known.

(b) Other records in the custody of the Commission may be requested in writing from the Office of the Secretary pursuant to the Commission's Procedures for Disclosure or Production of Information under the Freedom of Information Act (16 CFR Part 1015).

§ 1000.7 Advisory opinions and interpretations of regulations.

(a) *Advisory opinions.* Upon written request, the General Counsel provides written advisory opinions interpreting the acts the Commission administers. Advisory opinions represent the legal opinions of the General Counsel and may be changed or superseded by the Commission. Requests for issuance of advisory opinions should be sent to the General Counsel, Consumer Product Safety Commission, Washington, DC 20207. Requests for copies of particular previously issued advisory opinions or a copy of an index of such opinions should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

(b) *Interpretations of regulations.* Upon written request, the Associate Executive Director for Compliance and Administrative Litigation will issue written interpretations of Commission regulations pertaining to the safety standards and the enforcement of those standards. Requests for such interpretations should be sent to the Associate Executive director for Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207. Requests for interpretations of administrative regulations (e.g., Freedom of Information Act regulations) should be sent to the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

§ 1000.8 Meetings and hearings; public notice.

(a) The Commission may meet and exercise all its powers in any place.

(b) Meetings of the Commission are held as ordered by the Commission and, unless otherwise ordered, are held at the principal office of the Commission at 5401 Westbard Avenue, Bethesda, Maryland. Meetings of the Commission for the purpose of jointly conducting the

formal business of the agency, including the rendering of official decisions, are generally announced in advance and open to the public, as provided by the Government in the Sunshine Act (5 U.S.C. 552b) and the Commission's Meetings Policy (16 CFR Part 1012).

(c) The Commission may conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. It will publish notice of any proposed hearing in the **Federal Register** and will afford a reasonable opportunity for interested persons to present relevant testimony and data.

(d) Notices of Commission meetings, Commission hearings, and other Commission activities are published in a Public Calendar, as provided in the Commission's Meetings Policy (16 CFR Part 1012).

§ 1000.9 Quorum.

Three members of the Commission constitute a quorum for the transaction of business.

§ 1000.10 The Chairman and Vice Chairman.

(a) The Chairman is the principal executive officer of the Commission and, subject to the general policies of the Commission and to such regulatory decisions, findings, and determinations as the Commission is by law authorized to make, he or she exercises all of the executive and administrative functions of the Commission.

(b) The Commission annually elects a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the Office of the Chairman.

§ 1000.11 Delegation of functions.

Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(9)) authorizes the Commission to delegate any of its functions and powers, other than the power to issue subpoenas, to any officer or employee of the Commission. Delegations are published in the Commission's Directives System.

§ 1000.12 Organizational structure.

The Consumer Product Safety Commission is composed of the principal units listed in this section.

(a) The following units report directly to the Chairman of the Commission:

(1) Office of the General Counsel;
(2) Office of Congressional Relations;
(3) Office of Media Relations;
(4) Office of the Secretary;
(5) Office of Internal Audit;
(6) Office of Equal Employment Opportunity and Minority Enterprise;
(7) Office of the Executive Director.

(b) The following units report directly to the Executive Director of the Commission:

(1) Office of Program Management and Budget;
(2) Office of Planning and Evaluation;
(3) Office of Information and Public Affairs;
(4) Directorate for Epidemiology;
(5) Directorate for Economic Analysis;
(6) Directorate for Engineering Sciences;
(7) Directorate for Health Sciences;
(8) Directorate for Compliance and Administrative Litigation;
(9) Directorate for Field Operations.

§ 1000.13 Directives system.

The Commission maintains a Directives System which contains delegations of authority and descriptions of Commission programs, policies, and procedures. A complete set of directives is available for inspection in the public reading room at Commission headquarters.

§ 1000.14 Office of the General Counsel.

The Office of the General Counsel provides advice and counsel to the Commissioners and organizational components of the Commission on matters of law arising from operations of the Commission. It prepares the Commission's legislative program and comments on relevant legislative proposals originating elsewhere. The Office, in conjunction with the Department of Justice, is responsible for the conduct of all Federal court litigation to which the Commission is a party. The Office also advises the Commission on administrative litigation matters. The Office provides final legal review of and makes recommendations to the Commission on proposed product safety standards, rules, regulations, petition actions, and substantial hazard actions. It also provides legal review of certain procurement, personnel, and administrative actions and drafts documents for publication in the **Federal Register.**

§ 1000.15 Office of Congressional Relations.

The Office of Congressional Relations is the principal contact with the committees and members of Congress. It performs liaison duties for the Commission, provides information and assistance to Congress on matters of Commission policy, and coordinates testimony and appearances by Commissioners and agency personnel before Congress.

§ 1000.16 Office of Media Relations.

The Office of Media Relations is responsible for implementing the Commission's media relations program nationwide. The Office serves as the Commission's spokesperson to the national print and broadcast media, develops and disseminates the Commission's news releases, and organizes Commission news conferences.

§ 1000.17 Office of the Secretary.

The Office of the Secretary prepares the Commission's agenda, schedules and coordinates Commission business at offical meetings, and records, issues, and stores the official records of Commission actions. The Office prepares and publishes the Public Calendar under the Commission's Meetings Policy. The Office exercises joint responsibility with the Office of the General Counsel for the interpretation and application of the Privacy Act, Freedom of Information Act, and the Government in the Sunshine Act, and prepares reports required by these acts. It issues Commission decisions, orders, rules, and other offical documents, including **Federal Register** notices, for and on behalf of the Commission and controls the use of the Commission seal. The Office supervises and administers the dockets of adjudicative proceedings before the Commission. The Office maintains the records of continuing guaranties of compliance with applicable standards of flammability issued under the Flammable Fabrics Act (FFA) which are filed with the Commission in accordance with provisions of section 8(a) of the FFA (15 U.S.C. 1197(a)). Upon request, the Office of the Secretary provides appropriate forms to persons and firms desiring to execute continuing guaranties under the FFA. The Office also supervises and administers the public reading room.

§ 1000.18 Office of Internal Audit.

This Office reviews, analyzes, and reports on Commission programs and organization to assess compliance with relevant laws, regulations, and principles of efficency, effectiveness, and economy.

§ 1000.19 Office of Equal Employment Opportunity and Minority Enterprise.

The Office of Equal Employment Opportunity and Minority Enterprise assures the agency complies with all laws, regulations, rules and internal policies relating to equal employment opportunity. It assures compliance with the Small Business Act as it relates to small and disadvantaged business utilization. The Office also conducts the Upward Mobility Program.

§ 1000.20 Office of the Executive Director.

The Executive Director with the assistance of the Deputy Executive Director, under the broad direction of

the Chairman and in accordance with Commission policy, acts as the chief operating manager of the agency, supporting the development of the agency's budget and operating plan before and after Commission approval, and managing the execution of those plans. The Executive Director has direct line authority over the following directorates and offices: Epidemiology, Economic Analysis, Engineering Sciences, Health Sciences, Compliance and Administrative Litigation, Administration, and Field Operations; the Office of Program Management and Budget; the Office of Planning and Evaluation; and the Office of Information and Public Affairs.

§ 1000.21 Office of Program Management and Budget.

(a) The Office of Program Management and Budget is responsible for overseeing the development of the Commission's budget, program goals and objectives, and hazard program plans. The Office, in consultation with other offices and directorates, prepares, for the Commission's approval, the annual budget requests to Congress and the Office of Management and Budget and the operating plan for each fiscal year. It manages the execution of the Commission's budget. The Office recommends to the Office of the Executive Director actions to enhance effectiveness of the Commission's programs and activities.

(b) The Office of Program Management and Budget is also responsible for managing the hazard-releated programs contained in the Commission's operating plan and carries out other tasks assigned by the Executive Director. The Office is responsible for Information Resources Management activities and for international standards coordination and liaison. As an extension of the Office of the Executive Director, it is responsible for assuring the implementation of Commission decisions. Program Managers assigned to the Office provide overall direction to all hazard program projects, including those involving voluntary standards, petitions, and emerging hazards. This is especially true where functional responsibility extends across the organizational lines of other offices and directorates. The Program Managers' authority complements the functional authority vested in the Associate Executive Directors and other Office Directors to assure that relevant legal, technical, environmental, economic, and social impacts of projects are comprehensively and objectively presented to the Commission for decision. The Office carries out regular program reviews assessing the progress of projects to reach goals established by the Commission. The Office consults with the other staff directorates and offices in developing strategies to meet these goals. It is responsible for resolving issues that arise among the directorates and other offices in carrying out hazard program goals.

§ 1000.22 Office of Planning and Evaluation.

The Office of Planning and Evaluation reports to the Executive Director and is responsible for the Commission's planning and evaluation activities. It develops integrated short and long range plans for achieving the Commission's goals and objectives. The office is responsible for the development and analysis of both major policy and operational issues. Evaluation studies are conducted to determine how well the Commission fulfills it mission. These studies include impact and process evaluations of Commission programs, projects, functions, and activities. Recommendations are made to the Executive Director for changes to improve their efficiency and effectiveness. Management analyses and special studies are also conducted. These cover, but are not limited to, internal controls, organizational performance, structure, and productivity measurement. Recommendations are made to the Executive Director for improving management efficiency and effectiveness.

§ 1000.23 Office of Information and Public Affairs.

The Office of Information and Public Affairs is responsible for the development, implementation, and evaluation of a comprehensive national information and public affairs program designed to promote product safety. This includes responsibility for developing and maintaining relations with a wide range of national groups such as consumer organizations; business groups; trade associations; state and local government entities; labor organizations; medical, legal, scientific and other professional associations; and other Federal health, safety and consumer agencies. The Office also manages the Commission's Hotline, described in § 1000.3 of this chapter.

§ 1000.24 Directorate for Epidemiology.

The Directorate for Epidemiology, which is managed by the Associate Executive Director for Epidemiology, is responsible for injury data analysis to identify hazards or hazard patterns. The Directorate collects data on consumer product-related hazards and potential hazards, determines the frequency, severity, and distribution of the various types of injuries, and investigates their causes. It assesses the effects of product safety standards and programs on consumer injuries and conducts epidemiological and human factors studies and research in the fields of consumer product-related injuries. It maintains an injury data clearinghouse and manages the National Electronic Injury Surveillance System (NEISS).

§ 1000.25 Directorate for Economic Analysis.

The Directorate for Economic Analysis, which is managed by the Associate Executive Director for Economic Analysis, is responsible for providing the Commission with advice and information on economic and environmental matters and on the economic, social and environmental effects of Commission actions. It analyzes the potential effects of CPSC actions on consumers and on industries, including effects on competitive structure and commercial practices. The Directorate acquires, compiles, and maintains economic data on movements and trends in the general economy and on the production, distribution, and sales of consumer products and their components to assist in the analysis of CPSC priorities, policies, actions, and rules. It plans and carries out economic surveys of consumers and industries. It studies the costs of accidents and injuries. It evaluates the economic, societal, and environmental impact of product safety rules and standards. It performs such regulatory analyses and such studies of costs and benefits of CPSC actions as are required by the Consumer Product Safety Act, the National Environmental Policy Act, the Regulatory Flexibility Act and other Acts, and by policies established by the Consumer Product Safety Commission.

§ 1000.26 Directorate for Engineering Sciences.

The Directorate for Engineering Sciences, which is managed by the Associate Executive Director for Engineering Sciences, is responsible for developing technical policy and implementing the Commission's engineering programs. The Directorate's functional responsibility includes development and evaluation of product safety standards and test methods based on engineering and other physical sciences and the conduct and relevant evaluation of specific product testing to support general agency regulatory activities. The Directorate develops and

evaluates performance criteria, design specifications, and quality control standards for certain consumer products and provides scientific and technical expertise to the Commission. It conducts and evaluates engineering tests and test-methods, participates in the engineering development of product safety standards, and provides advice on proposed mandatory standards and industry voluntary standard efforts. It performs or monitors research in the engineering sciences and manages the Commission's engineering laboratory and engineering test facility and provides analytical services in support of the Commission's enforcement activities. The Directorate for Engineering Sciences conducts studies of the safety of consumer products. It coordinates engineering research testing and evaluation activities with the National Bureau of Standards and other Federal agencies, private industry, and consumer interest groups. The Directorate gives statistical support for the engineering aspects of standards development, certification programs, and sampling for field inspection programs. The Directorate provides technical supervision and direction of all engineering activities including tests and analyses conducted in the field. The Directorate provides engineering technical support to all Commission organizations, activities and programs. The Directorate analyzes accident data, develops accident scenarios, and recommends solutions. This information is applied to develop standards and corrective action plans. The Directorate provides appropriate analytical representation to the Office of Program Management and Budget.

§ 1000.27 Directorate for Health Sciences.

The Directorate for Health Sciences, which is managed by the Associate Executive Director for Health Sciences, is responsible for developing science policy and implementing the Commission's Health Sciences program. The Directorate's functional responsibilities include development and evaluation of the scientific content of product safety standards and test methods based on the chemical, biological and medical sciences, and the conduct and evaluation of specific product testing to support general agency regulatory activity. The Directorate also provides scientific and medical expertise to the Commission and it develops and evaluates performance criteria, design specifications, and quality control standards for certain consumer products. It conducts and evaluates scientific tests and test methods, participates in the scientific development of product safety standards, and provides advice on proposed standards. It collects scientific and medical data, reviews and evaluates toxicological, medical, and chemical hazards, and determines exposure, uptake and metabolism, including identification of the toxicological and physiological bases which cause some population segments to be at special risk. It performs risk assessments for chemical and physical hazards in consumer products. It performs or monitors research, and conducts studies of the safety of or of improving the safety of consumer products. It provides the Commission's primary source of technical expertise for implementation of the Poison Prevention Packaging Act. It provides the Commission's expertise on manufacturing practices and quality assurance for chemical consumer products and it provides scientific and laboratory support to the Commission's and other laboratories and other chemical or toxicological testing facilities. It provides scientific and medical support to all commission organizations, activities, and programs. The Directorate provides scientific liaison with the National Toxicological Program, the National Cancer Institute, the Environmental Protection Agency, other federal agencies and programs, and organizations concerned with reducing the risks to consumers from exposure to chemical hazards. It also manages activities of the Commission's advisory committees such as Chronic Hazard Advisory Panels.

§ 1000.28 Directorate for Compliance and Administrative Litigation.

The Directorate for Compliance and Administrative Litigation, which is managed by the Associate Executive Director for Compliance and Administrative Litigation, conducts or supervises the conduct of compliance and administrative enforcement activity under all administered acts, provides advice and guidance to regulated industries on complying with all administered acts and reviews proposed standards and rules with respect to their enforceability. The Directorate's responsibility also includes identifying and acting on safety hazards in consumer products already in distribution, promoting industry compliance with existing safety rules, and conducting litigation before an administrative law judge relative to administrative complaints. It provides advice and case guidance to field offices and participation in the development of standards before their promulgation to assure enforceability of the final product. It enforces the Consumer Product Safety Act requirement that firms identify and report product defects which could present possible substantial hazards. It reviews consumer complaints, in-depth investigations, and other data to identify those consumer products containing such hazards or which do not comply with existing safety requirements. The Directorate negotiates and subsequently monitors corrective action plans designed to recall defective or non-complying products and gives public warning to consumers where appropriate. It gathers information on generic product hazards which may lead to subsequent initiation of safety standard setting procedures. The Directorate develops surveillance strategies and programs designed to assure compliance with Commission standards and regulations. It originates instructions to field offices and provides subsequent interpretations or guidance for field surveillance and enforcement activities.

§ 1000.29 Directorate for Administration.

The Directorate of Administration, which is managed by the Associate Executive Director for Administration, is responsible for general administrative policy; maintenance of timeliness, quality, and efficiency of services; planning input, review; and administrative control within his or her functional area of responsibility. The Directorate's functional responsibility includes all general and delegated administrative functions supporting the Commission in the areas of financial management, management and organizational analysis, personnel, training, automated data systems, telecommunications, the reference library, and the physical plant. The Directorate is responsible for the execution of payment, financial control, accounting, and reporting of all expenditures within the Commission. It is responsible for all aspects of personnel management for the Commission, including recruitment and placement, classification standards and policies, and employee and labor-management relations. It evaluates the need for, develops, and implements all training programs for the Commission, including employee training, executive development, and training programs involving outside parties. The Directorate designs, implements, and operates all automated data systems and telecommunications. It provides support services for space management, supply and property management, security, printing and reproduction,

records management, transportation, warehousing, utilities, and mail. It is responsible for all CPSC contracts and procurement of services and supplies. It develops, implements, and maintains management information systems and distributes summary reports on data accumulated by those systems. The Directorate also maintains and updates the reference library, performs data and bibliographic research for the agency and its constituency, and administers the ordering, receiving, and distribution of all publications requested by or for CPSC personnel.

§ 1000.30 Directorate for Field Operations.

(a) The Directorate for Field Operations, which is managed by the Associate Executive Director for Field Operations, has direct line authority over all Commission field operations; develops, issues, approves, or clears proposals and instructions affecting the field activities; and provides a central point within the Commission from which Headquarters officials can obtain field support services. The Directorate provides direction and leadership to the Regional Center Directors and promulgates policies and operational guidelines which form the framework for management of Commission field operations. The Directorate works closely with the other Headquarters functional units, the Regional Centers, and other field offices to assure effective Headquarters-field relationships, proper allocation of resources to support Commission priorities in the field, and effective performance of field tasks. It represents the field and prepares field program documents. It coordinates direct contact procedures between Headquarter's offices and Regional Centers. The Directorate is also responsible for liaison with State, local, and other Federal agencies on product safety programs in the field.

(b) Regional Centers are responsible for carrying out investigative and compliance activities within their areas. They encourage voluntary industry compliance with the laws and regulations administered by the Commission and implement wide-ranging public information and education programs designed to reduce consumer product injuries. They also provide support and maintain liaison with components of the Commission, other Regional Centers, and appropriate Federal, State, and local government offices.

[FR Doc. 87-29726 Filed 12-28-87; 8:45 am]

BILLING CODE 6335-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Activities of Self-Regulatory Organization Governing Members Who Possess Material, Non-Public Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted final Regulation 1.59(c), which requires self-regulatory organizations to adopt rules prohibiting, in accordance with the standards contained in the regulation, disclosure or other improper use of material, non-public information by members of self-regulatory organization governing boards and committees.

EFFECTIVE DATE: New Regulation 1.59(c) becomes effective March 28, 1988.

FOR FURTHER INFORMATION CONTACT: De'Ana Hamilton-Brown, Attorney/Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

On June 11, 1985, the Commission published proposed Regulation 1.59 relating to the activities of self-regulatory organization ("SRO") employees and governing members who possess material, non-public information. 50 FR 24533. The Commission's proposal was designed to eliminate or minimize the potential misuse of material, non-public information by employees and governing members of SROs with possession of or access to material, non-public information, given that such conduct could undermine the concept of industry self-regulation and diminish public confidence in SROs. 50 FR 24533-34.

On November 25, 1986, the Commission adopted, as final, the provisions of Regulation 1.59 applicable to SRO employees. The rule prohibits the disclosure of material, non-public information obtained as a result of employment by an SRO. Furthermore, the rule requires SROs to adopt rules proscribing such disclosures and barring employees from trading in commodity interests on the employing contract market, in related commodity interests, or in commodity interests traded on other exchanges as to which the employee has access to material, non-public information.

Concurrently with the Commission's adoption of the final rules pertaining to SRO employees, the Commission deleted the portion of the rule pertaining to governing members. Generally, Regulation 1.59(c) would have prohibited governing members having knowledge of certain final or imminent decisions of a governing board or committee from trading the contract affected by such decisions or related contracts, and from disclosing information concerning the decisions, prior to publication. In addition, the proposed governing members provision would have required each contract market and clearing organization to adopt rules requiring that final decisions of governing boards or committees be announced publicly before the opening of the next trading session in the affected contract. These provisions were intended to prevent the misuse of information concerning decisions which could not be appealed to another body within the SRO and which, without further action, could alter materially the futures trading environment, such as decisions to revise margin levels substantially, limit trading to liquidation only, compel liquidation of positions held by major market participants, and other rule changes that could affect the prices of particular futures or option contracts. 51 FR at 44868 (December 12, 1986).

Objections to the proposal included concerns relating to the scope and operation of the proposed trading prohibition, which some commenters claimed would prohibit far more trading than necessary to preserve the integrity of contract markets and could impair the ability, or diminish the willingness, of knowledgeable SRO members who are also active traders to serve on an SRO board of directors or its major policy and disciplinary committees. Based upon its review of these and other comments, the Commission determined that the proposed restrictions upon the activities of governing members merited further consideration and possible amendment, deleted the governing members provision from Regulation 1.59, as adopted, and by **Federal Register** release of December 12, 1986, invited comment "on how best to revise the governing members provision" to address the concerns raised by the comments previously received.[1] 51 FR 44866, 44868.

[1] The Commission received nine comment letters in response to its December 12, 1986 request for

Continued

The commenters generally supported the view that governing members must maintain the confidentiality of sensitive information received in the performance of their official duties. However, some commenters questioned the necessity for Commission rulemaking to achieve that end, and a substantial number questioned the specific formulation of the previously proposed rule. In light of these and earlier comments, the Commission revised the proposed rule, and on August 28, 1987, the Commission published the new proposed governing members rule for comment. 52 FR 32568.

II. Activities of Self-Regulatory Organization Governing Members Who Possess Material Non-Public Information

The proposed Regulation 1.59(c), published in August, 1987, would have required SROs to adopt rules providing that no member of an SRO governing board or committee shall use or disclose, for any purpose other than the performance of such member's official duties as a governing member, material, non-public information obtained as a result of such member's participation on any committee or governing board of an SRO.[2] Proposed Regulation 1.59(c) also would have required contract markets and clearing organizations to adopt rules requiring the publication, except for good cause shown, of final decisions of contract market and clearing organization governing boards and committees prior to the opening of the next trading session in the affected contract on that contract market, and prior to the opening of the next trading session in a contract based on the same commodity as that contract traded on any linked exchange.

The recently proposed Regulation 1.59(c) differed significantly from the previous proposal. First, Regulation 1.59(c), as revised, would have encompassed the misuse of a potentially broader category of material, non-public information[3] than the original proposal, which would have addressed only those situations in which a governing member had knowledge of a final or imminent board or committee decision. Second, in contrast to the original proposal, which would have created a prohibition against trading by governing members who possessed or had access to material, non-public information, the revised proposal would have required case-by-case enforcement by the SROs. In this regard, the Commission anticipated that SROs would incorporate into their existing affirmative rule enforcement program, the surveillance of the trading activity of governing members where there was a potential nexus to knowledge of material, non-public information in their capacity as such, and other affirmative enforcement measures designed to detect and deter trading based upon such information and other misuse of such information. Finally, the proposed immediate publication provision, which previously would have included certain stringent procedural requirements, as revised, would have permitted delayed publication of a final decision for good cause shown, provided the Commission received prompt, written notification of such decision.

The Commission received six comment letters in response to its August 28, 1987 request for comments on revised Regulation 1.59(c).[4] Generally, the comments supported the provisions which would have required SROs to prohibit the disclosure or misuse of material, non-public information obtained by governing members as a result of their participation on SRO governing boards or committees, but opposed the immediate publication requirement with respect to final decisions of governing boards and committees.

The commenters agreed that the revised version of Regulation 1.59(c), excluding the immediate publication requirement, represented a significant improvement over the rule as previously proposed. One commenter acknowledged the need to maintain public confidence in the market and supported the Commission's proposal to adopt a performance standard. Another commenter stated that the "performance standard" approach would allow SROs to discipline members who abuse their trust and responsibilities by using or disclosing material, non-public information. The commenter stated further that the flexibility and focused restraint of the proposal, would avoid the loss of services on governing boards and committees by industry volunteers who might fear the restrictions on their trading activity contained in the 1985 proposal. Other commenters stated that the revised proposed regulation demonstrated the Commission's confidence in effective exchange rulemaking by leaving the responsibility for the specific terms to the exchanges, which are uniquely able to tailor their rules to fit their particular circumstance.

As noted, however, the commenters strongly opposed the immediate publication requirement as proposed in Regulation 1.59(c)(2). Most of the commenters agreed that certain board decisions should be announced promptly and publicly, but believed that mandating such disclosure by Commission rule is unnecessary and unduly burdensome. In this regard, several commenters stated that the immediate publication requirement is unnecessary in light of the provisions of proposed § 1.59(c)(1). Specifically, one commenter explained that governing members have a duty to disclose material, non-public information at the appropriate time, and if they breach that duty and make improper use of the information prior to public dissemination, they would be in violation of the exchange rules to be adopted pursuant to § 1.59(c)(1).

The commenters noted further that the immediate publication requirement, as proposed, often would be operationally impossible, particularly with the current

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comment: (1) Chicago Board of Trade; (2) Coffee, Sugar & Cocoa Exchange, Inc.; (3) Comex Clearing Association; (4) Commodity Exchange, Inc.; (5) Minneapolis Grain Exchange; (6) National Futures Association; (7) National Grain Trade Council; (8) National Grain and Feed Association; and (9) New York Mercantile Exchange. For an in-depth discussion of the comments received and the Commission's response, *See* 52 FR 32568 (August 28, 1987).

[2] The initially proposed governing members rule would have applied only to contract markets and clearing organizations. As revised, proposed Regulation 1.59(c)(1) would have applied to SROs, as defined in § 1.59(a)(1), thereby including the National Futures Association ("NFA"). That change reflects reformulation of the rule to apply to the use of material, non-public information as opposed to trading activities in the context of knowledge of final or imminent decisions relevant to such trading. NFA commented that revised Regulation 1.59(c) should not apply to NFA because "the applicability of § 1.59(c) to information obtained and decisions made by NFA board or committee members is remote." The Commission disagrees. NFA governing members have access to information concerning the financial condition of its members which the Commission believes could provide an unfair trading advantage, if used for that purpose.

[3] "For purposes of this section: * * * 'Material information' means information which would be considered important by a reasonable person in deciding whether to trade a particular commodity interest on a contract market, including, but not limited to, information relating to present or anticipated cash, futures or option positions, trading strategies, the financial condition of members of [SROs] or their customers, or the regulatory actions or proposed regulatory actions of [SROs]. 'Nonpublic information' means information which has not been disseminated in a manner which makes it generally available to the trading public through recognized channels of distribution." Regulations 1.59(a) (3) and (4). The Commission expects SROs, under the revised rule, to determine the application of the material, non-public information standard in specific factual contexts, a process that will refine the definition of the information that may not be misused or disclosed.

[4] This request elicited formal comment from: (1) Chicago Mercantile Exchange; (2) Coffee, Sugar & Cocoa Exchange, Inc.; (3) Chicago Board of Trade; (4) National Grain and Feed Association; (5) National Futures Association; and (6) National Grain Trade Council.

trend toward linkages between foreign and domestic exchanges, and most recently, the commencement of evening trading sessions. Several commenters opposed the inclusion of routine margin changes and member responsibility actions in the class of final decisions which would have been subject to the immediate publication requirement, because such decisions most often would not have a material impact on the market. Lastly, one exchange noted that some final decisions should not be published immediately to avoid possible market disruption, for example, a decision to order a firm to liquidate its positions within a specified period of time.

The Commission has considered the concerns raised by the commenters with respect to the immediate publication requirement, and agrees that the current proposal may not be the best approach. However, the Commission believes that the principle underlying the proposed immediate publication requirement should be preserved. Indeed, several commenters agreed that board and committee decisions which may have a material impact on the markets should be published promptly, and took issue only with the method proposed for accomplishing this end.

Accordingly, although the Commission has determined to delete the provisions which would have required exchanges to adopt rules requiring publication of final decisions before the next trading session, the Commission expects each SRO to review in its affirmative rule enforcement program the consistency with which final decisions are published promptly, as well as the justification provided when a potentially market-sensitive decision is not published promptly. In this regard, SRO boards and committees should document their reasons for delaying publication of a final decision which may constitute material, non-public information. If circumstances indicate an unjustified delay in publication of a final decision, the SRO should take that information into consideration in determining which members and decisions to focus upon in surveilling for possible violations of Regulation 1.59(c).

As the Commission stated in the previous **Federal Register** release concerning Regulation 1.59(c), "each [SRO] must develop and administer a program for detecting possible violations of its rule that is sufficient to deter and detect violations, so as to provide a meaningful foundation for public confidence in the fairness of the futures markets." 52 FR 32568, 32571. The Commission noted that such a program would entail, at a minimum, adequate access to governing members' trading records, review and investigation of complaints of improper trading, and review of trading by governing members and their affiliates.

While acknowledging the obligation of SROs to enforce the rules promulgated in accordance with Regulation 1.59(c), several commenters stated that a special affirmative compliance program aimed solely at the misuse and disclosure of material, non-public information by governing members would be an inefficient and unnecessary use of resources that would produce no meaningful result. Moreover, the commenters stated that their existing rules and procedures are sufficient to satisfy the rule enforcement obligations anticipated under Regulation 1.59(c).[5]

The Commission continues to believe that effective, affirmative SRO compliance programs designed to detect and deter violations of rules adopted in accordance with Regulation 1.59(c) are essential. However, the Commission is not proposing to require SROs to develop and implement a separate or unique affirmative compliance program aimed solely at detecting abuses of material, non-public information by governing members. Instead, the Commission expects SROs to expand their existing compliance programs to conduct surveillance in this area not unlike the manner in which they conduct surveillance programs to detect other rule violations. Such a program must be reasonably calculated to detect and deter abuses, but need not address the substantial portion of governing board and committee activities in which no material, non-public information is involved. For those instances where material, non-public information is involved, an SRO program, for example, could include surveillance of selected trading by governing members (including their affiliates) having access to material, non-public information. That surveillance could be limited to the commodities to which the information relates and the time period during which misuse of such information reasonably could be expected to occur. The Commission understands that the compliance programs used will vary among the SROs based upon, *inter alia*, the size of the market and the organizational structure of the governing boards and committees of each SRO.

The Commission is relying upon the individual SROs to define an effective program most suitable to their particular markets, and to devote the necessary resources to enforce their rules to be adopted pursuant to § 1.59(c). The Commission intends to review SRO activities in this area in the ordinary course of its oversight of the futures markets, most notably in the conduct of rule enforcement reviews.

III. Implementation Time of Regulation 1.59(c)

Commission Regulation 1.59(c) will not become effective until ninety days after the date of publication of the final rule. The delayed effective date should provide ample time for SROs to adopt and submit to the Commission, pursuant to section 5a(12) of the Commodity Exchange Act, rules consistent with the requirements of Regulation 1.59(c), and to comply therewith. The Commission expects the SROs to act expeditiously in submitting appropriate rules.

Regulatory Flexibility Act

The Commission has determined previously that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act (5 U.S.C. 605) and that the requirements of the Act do not, therefore, apply to contract markets. 47 FR 18618 (April 30, 1982). Furthermore, the Chairman of the Commission has certified previously on behalf of the Commission that comparable rule proposals, if adopted, would not have a significant economic impact on a substantial number of small entities. *See, e.g.*, 48 FR 32835, 32836 (July 19, 1983). For the reasons set forth above, and pursuant to Section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman hereby certifies, on behalf of the Commission, that the following § 1.59(c) will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act ("PRA") of 1980, 44 U.S.C. 3501 *et. seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information

[5] The Commission invited comment on whether effective enforcement of SRO rules implemented pursuant to proposed Regulation 1.59(c) would require that the Commission adopt rules designed to facilitate self-regulatory enforcement efforts. For example, the Commission suggested a requirement that SROs adopt rules permitting them to obtain documents related to trading in affected commodities or a requirement that specific disclosures be made by board or committee members of open positions in the contract market under discussion held by the governing member and such member's affiliated firm. All of the commenters who responded on this point stated emphatically that such rulemaking would be unnecessary, and reiterated that existing SRO rules and procedures are sufficient.

as defined by the PRA. In compliance with the PRA, the Commission previously submitted this rule in proposed form and its associated information collection requirements to the Office of Management and Budget ("OMB"), stating that Rule 1.59 does not impose any additional paperwork on the public, but that SROs may be required to submit new or altered rules to the Commission pursuant to Regulation 1.41. Rule 1.41 was assigned previously OMB Control No. 3038-0022.

Copies of the OMB approved information collection package associated with this rule may be obtained from Bob Neal, Office of Management and Budget, Room 3220, NEOB, Washington, DC 20503, (202) 395-7340.

List of Subjects in 17 CFR Part 1

SROS, Contract markets, Clearing organizations, Registered futures associations, Contract market members, Exchange employees, Directors of contract markets and clearing organizations.

In consideration of the foregoing, and based on the authority contained in the Commodity Exchange Act and, in particular, sections 3, 4b, 5, 5a, 6, 6b, 8, 8a, 9, 17, and 23(b) thereof, 7 U.S.C. 5, 6b, 7, 7a, 8, 13a, 12, 12a, 13, 21 and 26(b) the Commission is proposing to amend Title 17, Chapter I, Part 1 of the Code of Federal Regulations by adopting new § 1.59(c) as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 19, 21, 23, and 24, unless otherwise stated.

2. Section 1.59 is amended by revising the section heading and by adding paragraph (c) to read as follows:

§ 1.59 Activities of self-regulatory organization employees and governing members who possess material, non-public information.

* * * * *

(c) *Members of self-regulatory organization governing boards and committees.* Each self-regulatory organization must maintain in effect rules which have been submitted to the Commission pursuant to section 5a(12) of the Act and Commission Regulation 1.41 (or pursuant to section 17(j) of the Act in the case of a registered futures association) which provide that no member of such self-regulatory organization governing board or of a committee of such self-regulatory organization shall use or disclose, for any purpose other than the performance of such member's official duties as a governing board or committee member, material, non-public information obtained as a result of such member's participation on any committee or governing board of such self-regulatory organization.

Issued in Washington, DC on December 22, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-29721 Filed 12-28-87; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 240 and 270

[Release Nos. 34-25217; IC-16181; File No. S7-19-87]

Proxy Rules; Amendments To Eliminate Filing Requirements for Certain Preliminary Proxy Material; Amendments With Regard to Rule 14a-8, Shareholder Proposals

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today announced the adoption of amendments to the proxy rules to eliminate the filing of preliminary proxy and information statements under certain circumstances. To accommodate the changes in filing requirements, related amendments to Rules 14a-3, 14a-8, and 14c-3, Schedule 14C, the filing fee rules and Item 401 of Regulation S-K also are being adopted. In addition, the Commission is adopting an amendment to Rule 14a-8 to delete the limitation on inclusion of a shareholder proposal in the registrant's proxy material where the proponent delivers written proxy materials to holders of more than 25% of a class of the registrant's securities. Other amendments to Rule 14a-8 relating to requests for documentary support of a proponent's beneficial ownership claim require that a registrant make any request for documentary support within 14 calendar days, extend from 14 to 21 calendar days the time period in which such documentation must be furnished, and require that a registrant accept, under certain circumstances, a copy of certain Commission filings, together with a proponent's affidavit, as sufficient documentation of a proponent's beneficial ownership claim. Technical and clarifying amendments to Schedule 14A also are being adopted.

EFFECTIVE DATE: All amendments are effective February 1, 1988, except for the deletion of Rule 14a-8(a)(1)(ii), which is effective December 29, 1987. Refer to the supplementary information section below for a detailed explanation of how the effective date will affect the operation of Rules 14a-6(a), 14a-8(a)(1), 14a-8(d), 14a-8(e), 14c-5(a), and Schedule 14C.

FOR FURTHER INFORMATION CONTACT: Barbara J. Green or Elizabeth M. Murphy, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. After the effective date, contact Cecilia D. Blye, (202) 272-2573, Office of Chief Counsel, Division of Corporation Finance. With respect to investment companies, contact Dorothy M. Donohue, (202) 272-2107, Ofice of Disclosure and Adviser Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to Regulation 14A [1] (Rules 14a-3 [2], 14a-6 [3] and 14a-8 [4] and Schedule 14A [5]) and to Regulation 14C [6] (Rules 14c-3 [7] and 14c-5 [8] and Schedule 14C [9]) under the Securities Exchange Act of 1934 ("Exchange Act").[10] The Commission also is adopting amendments to Rule 20a-1 [11] under the Investment Company Act of 1940 ("Investment Company Act") [12] and to Item 401 [13] of Regulation S-K. [14]

The deletion of Rule 14a-8(a)(1)(ii) [15] is effective upon publication in the **Federal Register.** The effective date for all other amendments is February 1, 1988. The following outline indicates how the effective dates will affect the operation of Rules 14a-6(a),[16] 14a-8(a)(1),[17] 14a-8(d),[18] 14a-8(e),[19] 14c-5(a),[20] and Schedule 14C:

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[1] 17 CFR 240.14a-1 through 240.14b-2.
[2] 17 CFR 240.14a-3.
[3] 17 CFR 240.14a-6.
[4] 17 CFR 240.14a-8.
[5] 17 CFR 240.14a-101
[6] 17 CFR 240.14c-1 through 240.14c-101
[7] 17 CFR 240.14c-3.
[8] 17 CFR 240.14c-5.
[9] 17 CFR 240.14c-101
[10] 15 U.S.C. 78a-78kk.
[11] 17 CFR 270.20a-1
[12] 15 U.S.C. 80a-1 *et seq.*
[13] 17 CFR 229.401
[14] 17 CFR 229.1 *et seq.*
[15] 17 CFR 240.14a-8(a)(1)(ii).
[16] 17 CFR 240.14a-6(a).
[17] 17 CFR 240.14a-8(a)(1).
[18] 17 CFR 240.14a-8(b).
[19] 17 CFR 240.14a-8(e).
[20] 17 CFR 240.14c-5(a).

A. Rule 14a-6(a)

Registrants filing proxy statements on or after February 1, 1988, should comply with Rule 14a-6(a), as amended.

B. Rule 14a-8(a)(1)

1. Registrants receiving security holder proposals on or after February 1, 1988, should comply with the time restrictions imposed by Rule 14a-8(a)(1), as amended, in requesting documentation of beneficial ownership.

2. Security holder proponents furnishing documentation of beneficial ownership to registrants on or after February 1, 1988, should provide documentation considered acceptable under Rule 14a-8(a)(1), as amended. Similarly, registrants should accept such documentation received from security holder proponents on or after February 1, 1988. Further, the staff will not grant no-action letter requests to registrants where a proponent furnishes such documentation prior to February 1, 1988.

3. Security holder proponents responding to requests for documentation received on or after February 1, 1988, should comply with the time restrictions imposed by Rule 14a-8(a)(1), as amended.

4. Effective upon publication in the **Federal Register**, Rule 14a-8(a)(1)(ii) will not restrict the distribution of written proxy materials by security holder proponents because it has been deleted from Rule 14a-8(a)(1), as amended.

C. Rule 14a-8(d)

Registrants asserting to the Commission, on or after February 1, 1988, that security holder proposals may be omitted from their proxy materials, should comply with Rule 14a-8(d), as amended.

D. Rule 14a-8(e)

Registrants forwarding proponents copies of their statements in opposition on or after February 1, 1988, should comply with Rule 14a-8(e), as amended. Proponents informing the Commission on or after February 1, 1988, that a registrant's statement in opposition is false and misleading should comply with Rule 14a-8(e), as amended.

E. Rule 14c-5(a)

Registrants filing information statements on or after February 1, 1988, should comply with Rule 14c-5(a), as amended.

F. Schedule 14C

Registrants advising the Commission of an intent to rule a security holder proposal out of order on or after February 1, 1988, should comply with Instruction 2 to Item 4 of Schedule 14C, as amended.

I. Executive Summary

A. Exclusion from Filing Preliminary Proxy Material and Related Amendments

On June 4, 1987, the Commission proposed for public comment amendments to the proxy rules [21] to eliminate the filing by registrants of preliminary proxy and information statements with the Commission under certain circumstances.[22] The proposal was intended to relieve registrants and the Commission of unnecessary administrative burdens and preparation and processing costs associated with the filing and processing of proxy material that is currently subject to selective review procedures, but ordinarily is not selected for review in preliminary form. The Commission today is adopting the proposal with some modifications.

The exclusion affects only filing requirements; the amendments will not affect disclosure requirements or change the likelihood of review. As under current practice, definitive material still will be subject to being selected for review. Currently, definitive material may be reviewed, for example, when full review of a Form 10-K [23] is undertaken, material deficiencies in definitive materials come to the staff's attention, or an opposing solicitation is commenced after definitive material is filed. The rule amendments are not intended to change the current practice.

Related amendments to Rule 14a-3, Rule 14a-8, Rule 14c-3, Schedule 14C, filing fee rules and Item 401 of Regulation S-K also are being adopted by the Commission. These amendments base certain timing and filing requirements on the filing of definitive, rather than preliminary, proxy material. In addition, technical and clarifying amendments to Schedule 14A are being adopted.

B. Amendments to the Shareholder Proposal Rule

Since 1983, Rule 14a-8(a)(1)(ii) has provided that a shareholder proposal may be omitted from the registrant's proxy material if the proponent delivers written proxy material to holders of more than 25% of a class of the registrant's securities. In the June Release, the Commission sought comment on eliminating this provision. The commentators were divided on the issue, with shareholder proponents generally favoring and registrants generally opposing the elimination. The Commission also solicited comment on alternative amendments to Rule 14a-8(a)(1)(ii), either to modify the 25% limitation to permit inclusion of shareholder proposals in the registrant's proxy material even when the proponent is conducting a solicitation more widespread than that permitted under the present rule, or to retain the 25% limitation and clarify its applicability to exclusion of the proposal from the registrant's material for the current meeting of shareholders as well as the meetings held in the following two years.

In view of the recent increase in shareholder activism on corporate governance issues, the Commission is amending Rule 14a-8 to delete the 25% limitation contained in Rule 14a-8(a)(1)(ii). Amendments to Rule 14a-8 relating to requests for documentary support of a proponent's beneficial ownership claim also are being adopted.

II. Discussion of the Amendments

A. Exclusion From Filing Preliminary Proxy Material and Related Amendments

1. Scope

The exclusion from filing preliminary material [24] applied to a proxy or information statement distributed in connection with an annual meeting, or special meeting in lieu of an annual meeting, at which the only matters to be acted upon are the election of directors, the election, approval or ratification of auditors and/or shareholder proposals.[25] With respect to investment companies registered under the Investment Company Act and business development companies, the exclusion applies to any meeting (annual or special) at which the matters to be acted upon include those noted above as well as certain additional matters discussed in detail below. Where the exclusion applies, the Commission will not process preliminary proxy material.[26]

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[21] 17 CFR 240.14a-1 through 240.14c-101.

[22] Release No. 34-24552 (June 4, 1987) [52 FR 22334] (the "June Release"). The June Release generated letters from 43 commentators. These letters, as well as the comment summary prepared by the staff, are available for public inspection and copying at the Commission's Public Reference Room (*see* File No. S7-19-87). Three additional comment letters received after completion of the comment summary are not discussed in the comment summary but are available in File No. S7-19-87

[23] 17 CFR 249.310.

[24] *See* Rules 14a-6(a) and 14c-5(a), as amended.

[25] The shareholder proposals referred to are those included in a proxy statement pursuant to Rule 14a-8 or identified in an information statement pursuant to Item 4 of Schedule 14C.

[26] Paragraph (b) of Rule 14a-6 [17 CFR 240.14a-6(b)], which requires copies of any additional

Continued

Neither submission nor inclusion of a shareholder proposal in a registrant's proxy material will make the exclusion inapplicable and require the filing of preliminary material. Rule 14a-8 provides procedures for the review of shareholder proposals separate from the review of preliminary proxy materials. Under the amendments, as in the past, the staff will handle questions and disputes about the inclusion and characterization of shareholder proposals, as well as objections to statements in opposition, independently of the preliminary filing process.

The exclusion does not apply if the registrant comments on or refers to a solicitation in opposition in connection with the forthcoming meeting in its proxy material.[27] A note defines "solicitation in opposition" as any solicitation opposing a proposal supported by the registrant and any solicitation supporting a proposal that the registrant does not expressly support, other than a shareholder proposal included in a registrant's proxy material.[28] The note also clarifies that the inclusion of a shareholder proposal in a registrant's proxy material does not constitute a "solicitation in opposition," even if the registrant opposes the proposal or includes a statement in opposition to the proposal.[29]

a. *Treatment of Investment Companies.* The amendments require that investment companies and business development companies file only definitive material where the matters to be acted upon at any meeting, in addition to any discussed above, are a proposal to continue, without change, an advisory or other contract or agreement that previously has been the subject of a proxy solicitation for which proxy material was filed with the Commission and/or, in the case of an open-end investment company, a proposal to increase the number of shares authorized to be issued. The exclusion from filing preliminary proxy material applies to any meeting of investment company shareholders, rather than only an annual or special meeting in lieu of an annual meeting as proposed, because state law does not always require investment companies to hold annual meetings. The exclusion has been expanded to include business development companies (although they are not afforded the same favorable treatment with respect to annual meetings that investment companies are afforded under state law), because they deserve comparable treatment for the routine proxy issues discussed above.

Investment companies will not file preliminary proxy material in connection with an advisory or other contract only where the contract or agreement that is the subject of the vote already has been voted upon (either when initially adopted or subsequently continued) by the public shareholders. The phrase "without change" nonetheless allows, for example, for changes in the date of the agreement, new signatures or correction of any typographical errors.

The exclusion from filing preliminary material dealing with an increase in shares is limited to open-end companies. Dilution of control (the primary issue that arises in connection with a proposal to authorize new shares) is rarely an important consideration for open-end investment company shareholders. Thus, such proposals tend to be routine and staff review ordinarily is not essential.

b. *Proposal Relating to Solicitations in Opposition and Notice.* The June proposal was designed to require the filing of preliminary material where a solicitation in opposition in connection with the forthcoming meeting had been or was about to be undertaken. At the same time, the proposal recognized that a registrant could have its printing, distribution and meeting schedule disrupted if it learned of a solicitation in opposition shortly before definitive material was to be filed. Accordingly, the proposal contained provisions that would have required the filing of preliminary material if a party had commenced a solicitation in opposition or if the registrant had received notice of the intention of a party to commence such a solicitation, unless the solicitation was commenced or notice was first received during the 45 calendar days prior to the registrant's scheduled meeting date, and the registrant did not comment on or refer to such solicitation in its proxy material.

After considering the feasibility of the proposed provisions, the Commission has decided not to adopt them as proposed. Even where a solicitation in opposition has been or is about to be commenced, there is no reason to preclude reliance upon the exclusion from filing in preliminary form where the proxy material addresses only those matters triggering the exclusion, and does not comment on or refer to the opposing solicitation.

The Commission therefore has determined that proxy material otherwise meeting the requirements for the exclusion needs to be filed in preliminary form only if the registrant comments on or refers to a solicitation in opposition. This modification is consistent generally with the current review practice and effectuates more fully the original objective of the proposed amendments, which was to decrease burdens on registrants associated with the filing of preliminary material that deals with ordinary matters and is unlikely to be selected for review by the staff. The modification also obviates the need to resolve practical problems with the proposed notice provisions, which were identified by commentators, including potential disputes over whether or when notice was given and the inadequacy of the proposed 45 calendar day period for the printing and distribution of proxy materials.

2. Related Amendments to Rule 14a-8, Shareholder Proposal Rule

To accommodate the changes in filing requirements, it is necessary to amend paragraphs (d) and (e) of Rule 14a-8. The time periods in these provisions now will be based on the filing of definitive, rather than preliminary material. Paragraph (d), as amended, requires that the registrant notify the Commission and the proponent of its assertion that a proposal may be omitted at least 80 calendar days prior to the date of filing the definitive proxy material, rather than 60 calendar days prior to the date of filing preliminary material. Similarly, Instruction 2 of Item 4 of Schedule 14C is amended to require that, if the registrant intends to rule a shareholder proposal out of order, it should so advise the Commission 20 calendar days prior to the date that definitive copies of the information statement are to be filed, rather than at the time it files the preliminary copies of its information statement.

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soliciting material to be filed in preliminary form at least two business days prior to furnishing such material to shareholders, is not affected by the amendments. Rule 14a-11 [17 CFR 240.14a-11], which contains special provisions for election contests, and Rule 14a-12 [17 CFR 240.14a-12], which governs solicitations prior to furnishing required proxy statements, also are not affected by the amendments.

[27] A note has been added to Rule 14a-6(a) and 14c-5(a) stating that a registrant that is filing proxy material or an information statement in preliminary form only because it has commented on or referred to an opposing solicitation should so state in a transmittal letter when filing the preliminary material with the Commission.

[28] Accordingly, solicitations in opposition are not limited to those involving election contests and governed by Rule 14a-11.

[29] Where the registrant opposes a shareholder proposal included in the registrant's proxy material or comments on or refers to a solicitation in support of that shareholder proposal, the comments or references to the proposal or such solicitation will be considered a part of the registrant's statement in opposition and will be treated as such under Rule 14a-8, even if they appear elsewhere in the registrant's materials.

Paragraph (e) of Rule 14a-8 is amended to require that, not later than 30 calendar days prior to the filing of definitive proxy material with the Commission, the registrant forward to a shareholder proponent a copy of any statement in opposition to the proponent's resolution that the registrant intends to include in the proxy statement. Previously, this time period was 10 calendar days prior to the filing of preliminary material.

In addition, the Commission is amending the last paragraph of Rule 14a-8(e) to require that a proponent who believes that the registrant's statement in opposition is false and misleading, and so informs the Commission, provide a copy of the statement in opposition to the Commission along with his letter. The amendment will help prevent delays in review where the Commission has not been furnished with a copy of the statement in opposition.

3. Filing Fees and Other Related Amendments

To accommodate the change in filing requirements, the Commission is amending the filing fee requirements in Rules 14a-6(j) and 14c-5(g), [30] and in Rule 20a-1 under the Investment Company Act. The amendments require that where preliminary material is not required to be filed, a filing fee be paid when definitive material is filed.[31]

Additional technical revisions are being adopted to make Rule 14a-3(c),[32] Note 2 to Rule 14a-6(a), and Rules 14a-6(j) and 14c-3(b) [33] consistent with the elimination of the filing of certain preliminary proxy material. Rules 14a-3(c) and 14c-3(b) are being revised to add that, if preliminary filing is not required, copies of annual reports shall be mailed to the Commission not later than the date on which such reports are first sent or given to security holders or the date on which definitive material is filed. The word "proxy" is being substituted for the word "preliminary" in the first sentence of Note 2 to Rule 14a-6(a). Rule 14a-6(j) is being amended to eliminate a reference to "preliminary material" in introductory language and a reference to the solicitation of proxies for the "election of directors" with regard to preliminary material.[34]

B. Amendments to Rule 14a-8

1. Deletion of the 25% limitation in Rule 14a-8(a)(1)(ii)

Shareholder activism has increased in recent years. In the past proxy season, votes favoring shareholder proposals concerning corporate governance issues reached historically high levels.[35] In view of this increased shareholder interest in matters of corporate governance,[36] the Commission is adopting amendments to delete the 25% limitation in Rule 14a-8.[37] The deletion permits shareholder proposals that are included in registrant's proxy material to be accompanied by more widespread independent solicitations.[38] Such independent solicitations may increase shareholder participation and broaden the opportunities for shareholders to receive information on corporate governance issues, as well as foster debate on these issues. The Commission intends to monitor the practical effects of the deletion of the 25% limitation.

The deletion of the 25% limitation does not and is not intended to permit access to registrants' proxy materials for a party in an election contest. Shareholder proposals that relate to an election contest and/or are counter to a proposal to be submitted by the registrant at the meeting continue to be subject to exclusion from registrants' proxy materials under Rule 14a-8(c) (8) and (9).[39]

2. Requests for Documentary Support of Beneficial Ownership

Rules 14a-8(a) (1) and (2) set forth eligibility and other requirements for shareholder proposals. At the time of a proposal is submitted, the proponent must be a record holder or beneficial owner of at least 1% or $1,000 in market value of securities entitled to be voted on the proposal at the meeting and have held the securities for at least one year.[40] At that time, the proponent also must provide the registrant in writing with his or her name, address, the number of the registraint's voting securities held of record or beneficially, the dates on which the securities were acquired, and, in the case of beneficial ownership, documentary support for such a claim.[41] If the proponent fails initially to furnish documentary support for a claim of beneficial ownership, the registrant must request such support before the proposal is excludable under the Rule. Prior to these amendments, that request could have been made at any time.

In the June Release, the Commission proposed that a registrant be required to make any such request promptly. Alternatively, the Commission solicited comment on a fixed time period, such as 10, 14 or 21 calendar days. The Commission is amending Rule 14a-8(a)(1) to require that a registrant's request for documentation of a proponent's beneficial ownership be made within 14 calendar days after receipt of the shareholder proposal, where the proponent has failed to provide such documentation as required.[42] This amendment provides an early time period in the Rule for resolving issues of documentary

[30] 17 CFR 240.14a-6(j) and 17 CFR 240.14c-5(g).

[31] To facilitate processing by the Commission staff, a note has been added to Rules 14a-6(c) [17 CFR 240.14a-5(b)] and 14c-6(b) [17 CFR 240.14c-5(b)] stating that a registrant that is filing definitive proxy material or a definitive information statement without payment of a fee should state in the first paragraph of the transmittal letter that no fee is being paid because a fee was paid upon filing preliminary material.

[32] 17 CFR 240.14a-3(c).

[33] 17 CFR 240.14c-3(b).

[34] Minor conforming language revisions also have been made to Instruction 2 to Item 401(f) of Regulation S-K [17 CFR 229.401(f)]. Additional language has been added to the instruction to state that if any event specified in paragraph (f) has occurred and information in regard thereto is omitted on the grounds that it is not material, the registrant may furnish as supplemental information, ten days before definitive materials are filed (if preliminary filing is not required) materials to which the omission relates, a description of the event and a statement of the reasons for the omission of the information.

[35] For example, in the past proxy season of 32 votes on anti-poison pill shareholder proposals 14 drew more than 30% of the shares voted and at least three reached or surpassed 40%. Also, a shareholder proposal to require shareholder ratification of auditors received 61% of the vote, and at two companies shareholder proposals to reduce the supermajority required by fair price amendments received over 30% of the shares voted. *See* Investor Responsibility Research Center Inc. ("IRRC"), Voting by Institutional Investors on Corporate Governance Issues in the 1987 Proxy Season, October 1987, at 5-18; IRRC Corporate Governance Bulletin, Vol. IV, No. 4, July/August 1987, at 112-113; No. 3, May/June 1987, at 66-67, 90, 96.

[36] Bills are pending in Congress that address shareholder access to registrants' proxy machinery *See* H.R. 2172, 100th Cong., 1st Sess. (1987); H.R. 2668, 100th Cong., 1st Sess. (1987); S. 1323, 100th Cong., 1st Sess. (1987).

[37] In the June Release, the Commission proposed adding a note that would have stated that where a proponent requests to a copy of the registrant's shareholder list in order to be able to limit appropriately his delivery of written proxy materials to shareholders and the registrant refuses to provide the list, Rule 14a-8(a)(1)(ii) would not bar the shareholder proposal even if the proponent exceeded the limit contained in the Rule. The note is not being adopted because the 25% limitation is being deleted.

[38] Proponents that undertake independent solicitations must comply with the filing and disclosure requirements of the applicable proxy rules. *See, e.g.*, Rules 14a-3, 14a-6 and 14a-12.

[39] 17 CFR 240.14a-8(c) (8) and (9).

[40] Rule 14a-8(a)(1)(i) [17 CFR 240.14a-8(a)(1)(i)].

[41] Rule 14a-8(a)(2) [17 CFR 240.14a-8(a)(2)].

[42] A technical amendment is being made to the second sentence of Rule 14a-8(a)(1) to refer to documentation of beneficial ownership of at least 1% of the securities entitled to be voted on the proposal, as well as the alternative beneficial ownership requirement of at least $1,000 in market value.

support.[43] A fixed time period is being adopted to avoid any dispute or interpretive questions over the meaning of "promptly."

Further, the Commission is amending Rule 14a-8(a)(1) to change from 14 to 21 calendar days the time period within which a proponent must furnish appropriate documentation beneficial ownership after being requested to do so by a registrant. Since documentary support frequently is obtained from independent third parties, the Commission believes additional response time is warranted. Commentators noted difficulty in obtaining the necessary documentary support from record holders within the 14 calendar day period currently provided.

The Commission also is amending Rule 14a-8(a)(1) to codify its interpretive position that a written statement by a record owner or an independent third party, such as a depository or broker-dealer holding the securities in street name, of the proponent's holding of the registrant's securities for the relevant one year time period is appropriate documentation for a proponent's beneficial ownership claim. In addition, the Commission is amending the Rule to require that a registrant accept, as appropriate documentation of a proponent's beneficial ownership, a copy of ownership reports or amendments to such reports filed by the proponent with the Commission that indicate the proponent's beneficial ownership as of or prior to the date on which the relevant one year period commences, if supported by a copy of all subsequent amendments reporting a change in ownership level and the proponent's affidavit [44] attesting that the proponent has continued beneficial ownership of such securities throughout the required one year period and as of the date of the affidavit. the filings that a registrant is required to accept for these purposes are Schedule 13D,[45] Schedule 13G,[46] Form 13F,[47] Form 3 [48] and Form 4 [49] and any amendments thereto.

Regardless of the form of documentation utilized, the proponent is required to submit a written statement that he intends to continue beneficial ownership through the meeting date. Continuous beneficial ownership already is required by Rule 14a-8(a)(1); the Commission is amending the Rule to highlight this requirement.

As noted in the June Release, requests by registrants for documentation of ownership from record holders who submit shareholder proposals are neither appropriate nor consistent with Rule 14a-8. A record holder's proposal may not be omitted from the registrant's proxy material on the grounds that the record holder failed to provide documentation of ownership.

In addition, some registrants have conditioned the voting of proxies received with respect to a Rule 14a-8 shareholder proposal on the proposal being "seconded" at the meeting. Because Rule 14a-8(2)(2) does not require a "second," the voting of proxies received with respect to a shareholder proposal included in a registrant's proxy material pursuant to Rule 14a-8 may not be conditioned upon the proposal being seconded at the meeting, absent a second being required by state law or by the registrant's governing instruments.[50] If a second is required, it would be appropriate for the registrant to so advise the proponent a reasonable time before the meeting.

C. Other Technical and Clarifying Amendments

The Commission also is adopting technical and clarifying amendments to Schedule 14A. An amendment to Item 4, Persons Making the Solicitation, of Schedule 14A restores a sentence that was dropped inadvertently when Item 4 was revised in November 1986. The sentence clarifies that any person who would be a participant in a solicitation for purposes of Rule 14a-11, as defined in paragraphs (b)(3), (4), (5) and (6) of that Rule, is deemed to be a person on whose behalf the solicitation is made for purposes of paragraph (a) of Item 4.

Technical amendments to Item 10, Compensation Plans, of Schedule 14A are being adopted to provide, consistent with staff interpretation, that Item 10(a)(2)(iii), Item 10(a)(3)(iii) and Item 10(b)(2)(ii)(C) do not require separate disclosure with regard to current officers who are not executive officers. Rather, information regarding those officers will be included in the disclosure for "all employees as a group" in Item 10(a)(2)(iv), Item 10(a)(3)(iv) and Item 10(b)(2)(ii)(G).[51]

III. Cost-Benefit Analysis

In the June Release, the Commission requested commentators to provide views and data as to the costs and benefits associated with amending the filing requirements for proxy and information statements. The Commission noted that the elimination of the requirements to file preliminary proxy and information statements in certain circumstances should reduce some costs for those registrants who meet the requirements of the amendments.

Fourteen commentators expressed views and/or provided data as to the costs and benefits associated with the proposed amendments to the filing requirements. Eight commentators stated that elimination of the requirement to file proxy materials in preliminary form would result in time and cost savings to both the Commission and registrants. Seven commentators expressed concern that certain aspects of the proposed amendments potentially could increase costs to registrants. Four of these commentators expressed concerns about potential costs where definitive material is reviewed by the staff. Clarification of the Commission's intent with respect to review of definitive material has been included in this release. Three of the commentators expressed cost-related concerns regarding the brevity of the proposed 45 calendar day period. The Commission is not adopting the notice provisions related to the proposed 45 calendar day period.

The Commission also requested commentators to provide views and data concerning the costs and benefits of amending the shareholder proposal rule and filing fee requirements. In this regard, the Commission stated that the deletion or modification of Rule 14a-8(a)(1)(ii) might impose some costs on registrants and reduce some costs for

[43] In light of the fact that registrants will need to review incoming proposals to address this issue shortly after receipt, registrants also might consider making objections to proposals believed to be excludable under Rule 14a-8 at the same time. In this regard, the staff has taken the position that Rule 14a-8(a)(4) [17 CFR 240.14a-8(a)(4)] would prohibit the submission by a proponent of a second proposal for a particular shareholder meeting if one proposal has already been submited and the staff has taken a no-action position permitting its exclusion in response to a request by the registrant pursuant to Rule 14a-8(d). This position would apply even thought the time for submission of proposals under Rule 14a-8(a)(3) [CFR 240.14a-8(a)(3)] had not expired. *See* No-Action Letter regarding *The Firestone Tire & Rubber Company* (available December 16, 1987).

[44] As an alternative to an affidavit, the Rule also would permit the use of a declaration, affirmation or similar document provided for by applicable state law.

[45] 17 CFR 240.13d-101.

[46] 17 CFR 240.13d-102.

[47] 17 CFR 249.325.

[48] 17 CFR 249.103.

[49] 17 CFR 249.104.

[50] *See* No-Action Letter regarding *Motorola, Inc. (available October 8, 1987).*

[51] The Item 10 amendments are consistent with changes made to the Item in the November 1986 comprehensive proxy amendments (*see* Release No. 33-6676 (November 10, 1986) [F1 FR 42048]). The May 1987 modifications (*see* Release No. 33-6715 (May 27, 1987) [52 FR 21934]) created unintended logistical difficulties for registrants in tabulating the required information.

proponents of shareholder proposals, but that the other proposed amendments to the shareholder proposal rule should not increase or decrease significantly costs for registrants or proponents.

Twenty-two commentators expressed views and/or provided data concerning the costs and benefits of amending the shareholder proposal rule. Eleven of these commentators stated that the benefits to shareholder proponents of eliminating Rule 14a-8(a)(1)(ii) would outweigh the costs to registrants. These commentators asserted that the costs of conducting independent solicitations are prohibitively high and suggested that registrants would not incur appreciably greater costs due to the increase in the number of shareholder proposals that might result from elimination of the rule. Ten commentators stated that registrants should not be required to bear the additional expense of including shareholder proposals in their proxies were the proponent undertakes the costs of communicating with other shareholders. One commentator expressed concerns about the costs of amending the shareholder proposal rule during the 1988 proxy season. The Commission has included in the release detailed information regarding the effectiveness of the amendments.

Comments also were requested on the effects of the proposals on the costs to small entities. No comments on this subject were received.

IV. Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis in accordance with 5 U.S.C. 604 has been prepared regarding the amendments to Exchange Act Rules 14a-3, 14a-6, 14a-8, 14c-3, 14c-5, Schedule 14A, Schedule 14C, to Investment Company Act Rule 20a-1 and to Item 401 of Regulation S-K. Members of the public who wish to obtain a copy of the Final Regulatory Flexibility Analysis should contact Barbara J. Green or Elizabeth M. Murphy, (202) 727-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission , 450 Fifth Street NW., Washington, DC 20549. The corresponding Initial Regulatory Flexibility Analysis appears at 52 FR 22334 (Release No. 34-24552).

V. Statutory Basis

The amendments to the proxy rules are being adopted by the Commission pursuant to Sections 14 and 23(a) of the Securities Exchange Act of 1934. The Commission finds good cause under 5 U.S.C. 553(d) to make the deletion of paragraph (a)(1)(ii) from Rule 14a-8 effective immediately upon publication in the **Federal Register**. Before amendment, Rule 14a-8(a)(1)(ii) provided that proponents who delivered written proxy materials to holders of more than 25% of a class of the registrant's outstanding securities entitled to vote with respect to the same meeting of shareholders would be ineligible to use Rule 14a-8 for the inclusion of a proposal in the registrant's proxy materials. The Rule also set forth further restrictions to be imposed upon proponents who exceeded the 25% limit. The Commission is rescinding Rule 14a-8(a)(1)(ii) upon publication in the **Federal Register** in order to facilitate communications between shareholders, foster corporate democracy and alleviate the significant burdens it imposes upon shareholders proponents. Also, immediate effectiveness of the amendment will eliminate the need to draw an arbitrary line for effectiveness during the current proxy season, thus providing the benefit of the change to a greater number of shareholder proponents during this proxy season.

List of Subjects in CFR Parts 229, 240 and 270

Reporting and recordkeeping requirements, Securities.

VI. Text of the Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S-K

1. The authority citation for Part 229 continues to read, in part, as follows:

Authority: Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d) 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat. 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 78 Stat. 565-568, 569, 570-574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78*l*, 78m, 78n, 78*l*(d), 78w(a) * * *

2. By amending § 229.401 by revising Instruction 2 to paragraph (f) to read as follows:

§ 229.401 (Item 401) Directors, executive officers, promoters and control persons.

* * * * *

Instructions to paragraph (f) of Item 401.

* ** * *

2. If any event specified in this paragraph (f) has occurred and information in regard thereto is omitted on the grounds that it is not material, the registrant may furnish to the Commission, at time of filing (or at the time preliminary materials are filed, or ten days before definitive materials are filed in preliminary filing is not required, pursuant to Rule 14a-6 or 14c-5 under the Exchange Act (§§ 240.14a-6 and 240-14c-5 of this chapter)), as supplemental information and not as part of the registration statement, report, or proxy or information statement, materials to which the omission relates, a description of the event and a statement of the reasons for the omission of information in regard thereto.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for Part 240 continues to read, in part, as follows:

Authority: Sec. 23, 48 Stat. 901, as amended (15 U.S.C. 78w) * * *

4. By amending § 240.14a-3 by revising the first sentence of paragraph (c) to read as follows:

§ 240.14a-3 Information to be furnished to security holders.

* * * * *

(c) Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies, or definitive copies, if preliminary filing was not required, of solicitation material are filed with the Commission pursuant to Rule 14a-6, whichever date is later. * * *

* * * * *

5. By amending § 240.14a-6 by adding two sentences at the end of paragraph (a), revising the first sentence of note 2 to paragraph (a), adding new notes 3 and 4 to the end of paragraph (a), adding a new note to the end of paragraph (c), revising the first phrase of the introductory text of paragraph (j), revising paragraphs (j)(1), (2) and (3) and redesignating them as paragraphs (j)(2), (3) and (4) and adding new paragraph (j)(1) to read as follows:

§ 240. 14a-6 Filing requirements.

* * * * *

(a) * * * A registrant, however, shall not file with the Commission a preliminary proxy statement, form of proxy or other soliciting material to be furnished to security holders concurrently therewith if the solicitation relate to an annual (or special meeting in lieu of the annual) meeting, or for an

investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) or a business development company, if the solicitation relates to any meeting or security holders at which the only matter to be acted upon are:

(1) The election of directors;

(2) The election, approval or ratification of accountant(s);

(3) A security holder proposal included pursuant to Rule 14a-8 (§ 240.14a-8 of this chapter);

(4) With respect to an investment company registered under the Investment Company Act of 1940 or a business development company, a proposal to continue, without change, any advisory or other contract or agreement that previously has been the subject of a proxy solicitation for which proxy material was filed with the Commission pursuant to this rule; and/or

(5) With respect to an open-end investment company registered under the Investment Company Act of 1940, a proposal to increase the number of shares authorized to be issued.

This exclusion from filing preliminary proxy material does not apply if the registrant comments upon or refers to a solicitation in opposition in connection with the meeting in its proxy material.

* * * * *

Note 2. The official responsible for the preparation of the proxy material should make every effort to verify the accuracy and completeness of the information required by the applicable rules.* * *

Note 3. Solicitation in Opposition. For purposes of the exclusion from filing preliminary proxy material, a "solicitation in opposition" includes: (a) Any solicitation opposing a proposal supported by the registrant; and (b) any solicitation supporting a proposal that the registrant does not expressly support, other than a security holder proposal included in the registrant's proxy material pursuant to Rule 14a-8 (§ 240.14a-8 of this chapter). The inclusion of a security holder proposal in the registrant's proxy material pursuant to Rule 14a-8 does not constitute a "solicitation in opposition," even if the registrant opposes the proposal and/or includes a statement in opposition to the proposal.

Note 4. A registrant that is filing proxy material in preliminary form only because the registrant has commented on or referred to a solicitation in opposition should indicate that fact in a transmittal letter when filing the preliminary material with the Commission.

* * * * *

(c) * * *

Note. A registrant that is filing definitive proxy material without payment of a fee should state in the first paragraph of the transmittal letter that no fee is being paid because a fee was paid upon filing of preliminary proxy material.

* * * * *

(j) *Fees.* At the time of filing the proxy solicitation material,* * *

(1) For definitive proxy material relating to a solicitation for which the registrant does not file preliminary proxy material, a fee of $125;

(2) For preliminary proxy material that solicits proxies for business for which a stockholder vote is necessary, but apparently no controversy is involved, a fee of $125;

(3) For preliminary proxy material where a contest as set forth in Rule 14a-11 is involved, a fee of $500 from each party to the controversy; and

(4) For preliminary proxy material involving acquisitions, mergers, spinoffs, consolidations or proposed sales or other dispositions of substantially all the assets of the company, a fee established in accordance with Rule 0-11 [§ 240.0-11 of this chapter] shall be paid.

No refund shall be given.

* * * * *

6. By amending § 240.14a-8 by removing paragraph (a)(1)(ii) and redesignating paragraph (a)(1)(i) as (a)(1), revising the second sentence of paragraph (a)(1), the introductory text of paragraph (d) and paragraph (e), and adding a new sentence including new (a)(1) (i) and (ii), to follow the second sentence of paragraph (a)(1).

§ 240.14a-8 Proposals of security holders.

(a) * * *

(1) *Eligibility.* * * * If the registrant requests documentary support for a proponent's claim that he is the beneficial owner of at least 1% or $1000 in market value of such voting securities of the registrant or that he has been a beneficial owner of the securities for one or more years, the registrant shall make such request within 14 calendar days after receiving the security holder proposal and the proponent shall furnish appropriate documentation within 21 calendar days after receiving the request. Appropriate documentation of the proponent's claim of beneficial ownership shall include:

(i) A written statement by a record owner or an independent third party, accompanied by the proponent's written statement that the proponent intends to continue ownership of such securities through the date on which the meeting is held; or

(ii) A copy of a Schedule 13D (§ 240.13d-101 of this chapter), Schedule 13G (§ 240.13d-102 of this chapter), Form 13F (§ 249.325 of this chapter), Form 3 (§ 249.103 of this chapter) and/or Form 4 (§ 249.104 of this chapter), or amendments thereto, filed with the Commission and furnished to the registrant by the proponent, provided that such filings indicate the proponent's beneficial ownership as of or prior to the date on which the relevant one year period commences, and are supported by

(A) A copy of all subsequent amendments reporting a change in ownership level,

(B) The proponent's affidavit, declaration, affirmation or other similar document provided for under applicable state law attesting that the proponent continued to be the beneficial owner of at least 1% or $1000 in market value of such voting securities of the registrant throughout the required one year period and as of the date of the affidavit, declaration, affirmation or other similar document provided for under applicable state law, and

(C) The proponent's written statement that the proponent intends to continue ownership of such securities through the date on which the meeting is held. * * *

* * * * *

(d) Whenever the registrant asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall file with the Commission, not later than 80 calendar days prior to the date the definitive copies of the proxy statement and form of proxy are filed pursuant to Rule 14a-6 (§ 240.14a-6 of this chapter), or such shorter period prior to such date as the Commission or its staff may permit, six copies of the following items:

* * * * *

(e) If the registrant intends to include in the proxy statement a statement in opposition to a proposal received from a proponent, it shall, not later than 30 calendar days prior to the date the definitive copies of the proxy statement and form of proxy are filed pursuant to Rule 14a-6, or, in the event that the proposal must be revised to be includable, not later than five calendar days after receipt by the registrant of the revised proposal, promptly forward to the proponent a copy of the statement in opposition to the proposal. In the event the proponent believes that the statement in opposition contains materially false or misleading statements within the meaning of Rule 14a-9 and the proponent wishes to bring this matter to the attention of the Commission, the proponent promptly should provide the staff with a letter setting forth the reasons for this view

and a copy of the statement in opposition and at the same time promptly provide the registrant with a copy of his letter.

7. By amending § 240.14a-101 by adding a second sentence to paragraph (a)(2) of Item 4 and revising paragraphs (a)(2), (a)(3) and (b)(2)(ii) (C) and (G) of Item 10 as follows:

§ 240.14a-101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 4. Persons Making the Solicitation—(a) * * *

(2) * * * Any person who would be a participant in a solicitation for purposes of Rule 14a-11 (§ 240.14a-11 of this chapter) as defined in paragraph (b) (3), (4), (5) and (6) thereof shall be deemed a person on whose behalf the solicitation is made for purposes of this paragraph (a).

* * * * *

Item 10. Compensation Plans. * * * (a) * * *

(2) State the benefits or amounts which will be received by or allocated to each of the following under the plan being acted upon, if such benefits or amounts are determinable: (i) Each person (stating name and position) specified in paragraph (a)(1)(i) of Item 402 of Regulation S-K (§ 229.402 of this chapter); (ii) all current executive officers as a group; (iii) all current directors who are not executive officers as a group; and (iv) all employees, including all current officers who are not executive officers, as a group. If such benefits or amounts are not determinable, state the benefits or amounts which would have been received by or allocated to each of the following for the last fiscal year if the plan had been in effect, if such benefits or amounts may be determined: (i) Each person (stating name and position) specified in paragraph (a)(1)(i) of Item 402 of Regulation S-K (§ 229.402 of this chapter); (ii) all current exeuctive officers as a group; (iii) all current directors who are not executive officers as a group; and (iv) all employees, including all current officers who are not executive officers, as a group.

(3) Furnish the information called for by Item 402(b) of Regulation S-K (§ 229.402 of this chapter) with respect to all compensation plans now in effect or in effect during the last three years except that information called for in paragraphs (b)(1) (vi) and (vii) and (b)(4) of Item 402(b) of Regulation S-K (§ 229.402 of this chapter) should be furnished with respect to the last three fiscal years for the following: (i) Each person (stating name and position) specified in Item 402(a)(1)(i) of Regulation S-K (§ 229.402 of this chapter); (ii) all current executive officers as a group; (iii) all current directors who are not executive officers as a group, if such persons may participate in the plan; and (iv) all employees who may participate in the plan, including all current officers who are not executive officers, as a group.

(b) * * *

(2) * * *

(ii) * * *

(C) All current directors who are not executive officers as a group;

* * * * *

(G) All employees, including all current officers who are not executive officers, as a group.

* * * * *

8. By amending § 240.14c-3 by revising the first sentence of paragraph (b) to read as follows:

§ 240.14c-3 Annual report to be furnished security holders.

* * * * *

(b) Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies, or definitive copies, if preliminary filing was not required, of the information statement are filed with the Commission pursuant to Rule 14c-5, whichever date is later. * * *

* * * * *

9. By amending § 240.14c-5 by adding two new sentences following the second sentence in paragraph (a), new notes 3 and 4 to the end of paragraph (a), a new note to the end of paragraph (b), and revising paragraph (g) to read as follows:

§ 240.14c-5 Filing requirements.

* * * * *

(a) * * * A registrant, however, shall not file with the Commission a preliminary information statement if it relates to an annual (or special meeting in lieu of the annual) meeting, of security holders at which the only matters to be acted upon are:

(1) The election of directors;

(2) The election, approval or ratification of accountant(s); and/or

(3) A security holder proposal identified in the registrant's information statement pursuant to Item 4 of Schedule 14C (§ 240.14c-101 of this chapter).

This exclusion from filing a preliminary information statement does not apply if the registrant comments upon or refers to a solicitation in opposition in connection with the meeting in its information statement.

* * * * *

Note 3.—Solicitation in Opposition—For purposes of the exclusion from filing a preliminary information statement, a "solicitation in opposition" includes: (a) Any solicitation opposing a proposal supported by the registrant; and (b) any solicitation supporting a proposal that the registrant does not expressly support, other than a security holder proposal identified in the registrant's information statement pursuant to Item 4 of Schedule 14C (§ 240.14c-101 of this chapter). The identification of a security holder proposal in the registrant's information statement does not constitute a "solicitation in opposition," even if the registrant opposes the proposal and/or includes a statement in opposition to the proposal.

Note 4.—A registrant that is filing an information statement in preliminary form only because the registrant has commented on or referred to an opposing solicitation should indicate that fact in a transmittal letter when filing the preliminary material with the Commission.

(b) * * *

Note.—A registrant that is filing a definitive information statement without payment of a fee should state in the first paragraph of the transmittal letter that no fee is being paid because a fee was paid upon filing of the preliminary information statement.

* * * * *

(g) *Fees.* At the time of filing the preliminary information statement, or the definitive information statement if no preliminary information statement is filed, the registrant shall pay to the Commission a fee, no part of which shall be refunded, of $125. However, when filing a preliminary information statement regarding an acquisition, merger, spinoff, consolidation or proposed sale or other disposition of substantially all the asserts of the company, the registrant shall pay the Commission a fee, no part of which shall be refunded, established in accordance with Rule 0-11 (§ 240.0-11 of this chapter). 10. By amending § 240.14c-101 by revising Instruction 2 to Item 4 as follows:

§ 240.14c-101 Schedule 14C. Information required in information statement.

* * * * *

Item 4. Proposals by security holders. * * * *Instructions.* * * *

2. If the registrant intends to rule a proposal out of order, the Commission shall be so advised 20 calendar days prior to the date the definitive copies of the information statement are filed with the Commission, together with a statement of the reasons why the proposal is not deemed to be a proper subject for action by security holders.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

11. The authority citation for Part 270 continues to read, in part, as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a-37, 80c-89 * * *

12. By amending § 270.20a-1 by revising paragraph (c) to read as follows:

§ 270.20a-1 Solicitation of proxies, consents and authorizations.

* * * * *

(c) In lieu of the fees specified in Rule 14a-6 of the general rules and regulations under the Securities Exchange Act of 1934, at the time of filing the preliminary solicitation material or, if no preliminary solicitation material is filed, at the time of filing the definitive solicitation material, the person upon whose behalf the solicitation is made shall pay to the Commission a fee of $125, no part of which shall be refunded.

By the Commission.

Jonathan G. Katz,

Secretary.

December 21, 1987.

[FR Doc. 87-29707 Filed 12-28-87; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 250

[Release No. 35-24536; File No. S7-21-87]

Exemption From Requirement of a Declaration With Respect to Certain Agreements by Parent Companies in a Registered Holding Company System Concerning the Obligations of Their Subsidiary Companies

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule amendment.

SUMMARY: The Commission has amended an existing rule to exempt from the requirement of a declaration certain routine agreements in the nature of guarantees by parent companies in a registered holding company system of the obligations of their subsidiary companies.

EFFECTIVE DATE: December 29, 1987.

FOR FURTHER INFORMATION CONTACT: Stanley B. Judd, Senior Special Counsel, Office of the Deputy Director (202-272-2079), or Martha Cathey Baker, Attorney (202-272-2073), Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today has amended Rule 45(b) (17 CFR 250.45) under the Public Utility Holding Company Act of 1935 ("Act") (15 U.S.C. 79 *et seq*). Rule 45(b) exempts certain transactions from the requirement of Rule 45(a) (17 CFR 250.45) that transactions subject to Section 12(b) (15 U.S.C. 791(b)) of the Act must be authorized by order of the Commission pursuant to a declaration. Section 12(b) prohibits registered holding companies and their subsidiaries from lending to, extending credit in any manner to, or indemnifying any company in the same holding company system, whether directly or indirectly, in contravention of the rules, regulations or orders which the Commission deems necessary or appropriate in the public interest to protect investors or consumers or to prevent the circumvention of the Act and rules, regulations and orders thereunder.

The amendment, which was proposed on June 16, 1987 (Holding Company Act Release No. 24406) ("Proposing Release") [1] exempts from the requirement of a declaration certain routine agreements whereby a parent company in a registered holding company system guarantees, assumes joint liability upon, or acts as surety or indemnitor for the obligations of its subsidiary. The purpose of the rule amendment is to eliminate the time and expense required to prepare and submit declarations with respect to the agreements, and to eliminate the administrative burden of reviewing such filings.

The background and reasons for the amendment are summarized in this release. The Proposing Release contains a more detailed discussion.

Background

Sections 12 and 13 of the Act were intended to provide complete regulation of intercompany transactions within holding company systems. The purpose of Section 12(b) was to regulate downstream loans, whether on an open book account or otherwise. The declaration requirement with respect to transactions subject to Section 12(b) is intended to ensure that such transactions are fair, that they benefit rather than harm the operating subsidiary companies, and that they are based upon sound financial policies.

On March 19, 1987, The Columbia Gas System, Inc. ("Columbia"), a registered holding company, filed a rulemaking petition concerning the agreements which are the subject of the proposed amendment. The rulemaking petition, as amended, was the basis for the Proposing Release.

Discussion

1. *Summary of Comments*

The Commission received three comment letters on the proposed amendment. All of the commentators supported the new exemption. They agreed that the rule contained well-defined limitations and safeguards and that it would result in significant time and cost savings.

One commentator suggested a revision to modify the valuation of par value securities for purposes of the amendment. As proposed, the amendment provides that the aggregate amount of contingent liability assumed by a parent company shall not exceed the greater of $50,000,000 or 5 percent of the aggregate principal amount and par value of securities previously issued by the parent company. For securities having no par value, the fair market value of such securities on the date of issuance is to be used. The commentator believes that this approach undervalues par value stock, and suggests that such stock should be valued instead at its fair market value as of the date of issuance. The commentator states that the cap on the aggregate amount of contingent liability will otherwise be fixed at too low a level for parent companies which have a large amount of par value securities outstanding.

2. *Response to the Comments*

The commentators' concern can be illustrated by a hypothetical. If two companies have issued securities of the same type and with the same market value, but one has issued par value stock and the other no par value stock, the amount of contingent liability which the former can assume pursuant to the 5 percent provision is likely to be less than that which the latter can assume. This is because the value assigned to par value stock upon initial sale is generally lower than market value at the date of issuance. Thus, the approach to the valuation of par value and no par value stock contained in the Proposing Release could produce a discriminatory effect among companies relying upon the 5 percent limitation.

Conclusion

The purpose of the amendment is to reduce the administrative burdens of the Act by allowing parent companies in registered holding companies to enter into the agreements encompassed by the exemptive rule without prior authorization by the Commission, as required by the existing rule. The 5 percent provision, along with the alternative $50,000,000 limitation, is intended to mark a boundary between transactions which should require prior authorization and those which should not.[2] It should not result in different

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[1] 52 FR 23679 (June 24, 1987).

[2] A declaration pursuant to Rule 45(a) will continue to be required for agreements which do not come within the exemption.

treatment on the basis of whether a company did or did not issue stock that happened to have a par value. The Commission believes that the commentator's proposed revision to the amendment should be adopted.

Costs and Benefits

The commentators identifed various costs and benefits which will result from the rule change, while stating that it is difficult or impossible to quantify such costs and benefits. First, the amendment will eliminate the time and expense required to prepare and submit such declarations and the administrative burden of reviewing them. Second, the amendment will eliminate the costs from delays caused by the present requirement of prior approval by the Commission. One commentator noted that it has been necessary on a number of occasions for a parent company to purchase surety and other bonds in the absence of a guarantee or indemnification. The rule change will allow required surety bonds and other evidences of indemnification and guarantee to issue as soon as needed on the most economical basis.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman of the Commission certified that the proposed amendment of Rule 45 will not, if adopted, have a significant economic impact on a substantial number of small entities. The Commission did not receive any comments concerning the Chairman's certification.

Paperwork Reduction Act

The Office of Management and Budget approved the amendment to Rule 45(b) on July 17, 1987.

List of Subjects in 17 CFR Part 250

Public utilities, Registered holding companies and their subsidiaries, loans, extensions of credit, Guarantees, Indemnifications.

Text of Rule Amendment

Part 250 of Chapter II of Title 17 of the Code of Federal Regulations is amended as shown.

PART 250—RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. The authority citation for Part 250 continues to read, in part, as follows:

Authority: Secs. 3, 20, 49 Stat. 810, 833; 15 U.S.C. 79c, 79t * * * Sec. 250.45(b)(6) also issued under Sec. 12(b), 15 U.S.C. 791(b).

2. Add a new § 250.45(b)(6) to read as follows:

§ 250.45 Loans, extensions of credit, donations and capital contributions to associate companies.

* * * * *

(b) *Exceptions.* * * *

(6) An agreement by a registered holding company or subsidiary company of a registered holding company to guarantee, to assume joint liability, or to act as a surety or as an indemnitor with respect to contingent liabilities or other obligations of a subsidiary of such company, incurred in the ordinary course of such subsidiary's business, if said agreement is in the form of:

(i) A direct guarantee, assumption of liability, surety or indemnification of the subsidiary company's obligations which is required to meet the requirements of federal, state or local law; or

(ii) An indirect guarantee of a subsidiary through a surety or indemnification of one or more surety companies or agencies, which have agreed to provide bonds of the following kinds required by subsidiary companies in the holding-company system:

(A) Court and fiduciary bonds such as appeal bonds, supersedeas bonds, condemnation bonds, or bonds required to free property from attachment or to lift an injuction;

(B) License and permit bonds such as blasting and oversize load permit bonds;

(C) United States, state and local government bonds such as customs bonds, workers' compensation self-insurance bonds, bonds required by the Internal Revenue Services, mineral right-of-way or drilling lease bonds and notary public bonds;

(D) Lost instrument bonds or other bonds which may be necessary or desirable in connection with the processing of securities or any bonds which may be required by a stock exchange on which any security is listed;

(E) Admiralty bonds;

(F) Bonds required for engineering or construction purposes such as bid, performance or payment bonds;

(G) Any other bonds of a similar nature required for routine operational purposes:

Provided, however, that: (*1*) No payment, compensation or other consideration shall be paid or accrue to the parent company in consideration for such guarantee, assumption of liability, surety or indemnification; (*2*) this rule shall not be construed to apply to a direct or indirect guarantee, assumption of liability, surety or indemnification of a subsidiary company's indebtedness for borrowed money; and (*3*) the aggregate of all such direct and indirect guarantees, assumptions of liability, sureties or indemnifications by the parent company, shall not exceed the greater of $50,000,000, or 5 percent of the aggregate amount of the other securities of the company then outstanding, such securities to be valued at (*i*) original principal amount, if there is such a principal amount, and (*ii*) fair market value as of the date of issuance, if there is no such principal amount. Par value stock shall be treated in the same manner as no par value stock, *i.e.*, as stock issued without any principal amount.

* * * * *

By the Commission.

Jonathan G. Katz,

Secretary.

December 22, 1987

[FR Doc. 87-29775 Filed 12-28-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket Nos. RM87-34-000 Through RM87-34-054]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol

Issued December 23, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order on rehearing modifying prior orders and requesting comments.

SUMMARY: The Federal Energy Regulatory Commission is, in Order No. 500-C, amending on rehearing the interim regulations which it promulgated in Order Nos. 500 and 500-B in response to the decision of the United States Court of Appeals for the District of Columbia Circuit in *Associated Gas Distributors* v. *FERC*, 824 F.2d 981 (D.C. Cir. 1987). Order No. 500-C alters temporarily the treatment, under the Order No. 500 crediting mechanism, of: (1) Casinghead gas, (2) gas purchased by processing plants under percentage-of-proceeds operating agreements, (3) gas released from intrastate system supply, and (4) permanently alters the treatment of certain new gas. Order No. 500-C also permits persons other than the working interest owner to offer to act as guarantor for the working interest owner.

In addition, the Commission is denying requests that it stay

implementation of the Order No. 500 crediting mechanism. Finally, the Commission is requesting comments on a number of specific issues concerning the crediting mechanism.

DATES: The effective date for the changes in the regulatory text is December 23, 1987. Written comments must be filed with the Commission by January 22, 1988.

ADDRESS: Comments should be filed with: Federal Energy Regulatory Commission, Office of the Secretary, Room 3110, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Richard Howe, Jr., Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8274.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

Order No. 500-C—Rehearing Modifying Prior Orders and Requesting Comments

Issued December 23, 1987

I. Introduction

Since the October 16, 1987 issuance of Order No. 500-B [1] and the Order Explaining Crediting Provisions of Order No. 500 (explanatory order),[2] eleven requests for rehearing of those orders have been filed. In addition, a number of requests for a stay or further clarification of the Order No. 500 take-or-pay crediting provisions have also been filed. Upon consideration of these filings and the formal comments on Order No. 500,[3] the Commission has determined to make certain changes in the Order No. 500 crediting mechanism before crediting is implemented on January 1, 1988, for transportation that was ongoing on September 15, 1987.[4] However, the Commission believes that, with these changes, crediting should be implemented on January 1, 1988, for ongoing transportation and, accordingly, the various stay requests are denied.

[1] 52 FR 39,630 (Oct. 23, 1987).

[2] 41 FERC ¶ 61,025 (1987).

[3] 52 FR 30,334 (Aug. 14, 1987).

[4] In Order No. 500-B, the Commission provided that transportation performed pursuant to a transportation agreement in effect on September 15, 1987 may continue until January 1, 1988, without the submission of an offer of credits. The Order No. 500 crediting mechanism became effective on September 15, 1987 for new transportation performed under agreements entered into after that date

II. Discussion

A. Casinghead Gas

Under Order Nos. 500 and 500-B, interstate pipelines may apply take-or-pay credits against their minimum take obligations under take-and-pay contracts. A number of producers request that the Commission eliminate this right.[5] The producers state that take-and-pay provisions are included in gas sales contracts in situations where the purchaser's failure to take the gas could have significant adverse effects. Thus, casinghead gas is generally sold pursuant to take-and-pay clauses, since a pipeline's failure to take the casinghead gas could require the producer either to flare the gas or shut in the oil production with which the casinghead gas is associated. The producers also state that take-and-pay provisions may be included in contracts where a pipeline's failure to take a minimum amount of gas could damage the well, trigger a lease forfeiture clause, or result in drainage of gas by other producers' wells.

The Commission has determined that pipelines should not apply credits against their minimum take obligations for casinghead gas until the Commission has had a further opportunity to consider the effect on the public interest. A pipeline's failure to comply with minimum take requirements for casinghead gas may seriously harm the public interest. As the producers state, casinghead gas cannot be shut in without also shutting in the accompanying oil production, since the casinghead gas is a necessary byproduct of the oil production. Thus, a pipeline's failure to take casinghead gas would likely require the producer either to shut in the oil production or flare the casinghead gas, unless the gas can be reinjected into the reservoir. Shutting in any domestic oil production increases U.S. dependence on foreign oil, with obvious adverse consequences for the trade deficit and national security. Alternatively, flaring the gas wastes a valuable natural resource. These adverse consequences may outweigh any amelioration of pipeline take-or-pay problems arising through application of the take-or-pay credits to casinghead gas.

In these circumstances, the Commission believes that, until it has an opportunity to make a more informed determination about the effect of permitting credits against minimum take obligations for casinghead gas, the wisest course is to postpone the pipeline's right to apply credits against this kind of contract. Therefore, the Commission is modifying its regulations to provide that no credits generated by transportation performed before April 1, 1988, may be applied against minimum take obligations for casinghead gas.[6] The Commission requests comment on whether pipelines should be permitted to apply credits arising from transportation performed after April 1, 1988, against minimum take obligations for casinghead gas. Specifically, the Commission requests comments on the extent to which the adverse consequences described above may be minimized through reinjection of casinghead gas into the reservoir or other means. The Commission also requests comment on whether a permanent elimination of the pipelines' right to apply credits against minimum take obligations for casinghead gas would significantly reduce the take-or-pay relief provided by Order No. 500. Based upon these comments and analysis of the responses to the Commission's take-or-pay data request, the Commission will determine whether the public interest would be served by permitting pipelines to apply credits, arising from transportation after April 1, 1988, to minimum take obligations for casinghead gas.

The Commission believes that the temporary limitation adopted here on the pipeline's right to apply credits against casinghead gas does not so seriously affect the take-or-pay relief afforded by Order No. 500 as to outweigh the concerns described above. In particular, the Commission emphasizes that the limitation does not in any way reduce the number of credits pipelines will receive under Order No. 500 for transporting gas. To the extent pipelines transport casinghead gas before April 1, 1988, that transportation will still generate credits under Order No. 500. Only the contractual obligations *against which* take-or-pay credits may be applied are affected.

The Commission is not eliminating the pipeline's right to apply credits against minimum take obligations for gas other than casinghead gas. While the Commission recognizes that application of credits against any minimum take

[5] *See, e.g.*, Motion for reconsideration and/or request for rehearing of Mobil Oil Corp. (filed Nov 17 1987) at 13-16. *See also* comments of Chevron U.S.A. Inc. (Chevron) at 33; Depco, Inc., at 8; Huffco Petroleum Corp. (Huffco) at 7; Marathon Oil Co. at 2; Indicated Producers at 13, 32; Natural Gas Supply Association (NGSA) at 28, 34, 44.

[6] *See* §§ 284.8(f)(4)(ii) and 284.9(f)(4)(ii), as modified by this order For these purposes, only gas which was defined as casinghead gas under state law in effect on June 23, 1987 shall be considered casinghead gas.

obligation may seriously affect the individual producer involved, it has not been shown that the adverse effect on the public interest is potentially so severe when casinghead gas is not involved as to warrant the type of action taken with respect to casinghead gas. Nevertheless, certain persons have raised concerns about the effect on the public interest of allowing crediting against minimum take obligations for gas other than casinghead gas, particularly gas from the Outer Continental Shelf. Consequently, the Commission requests comment on how much gas, other than casinghead gas, is subject to take-and-pay provisions, what the impact on the public interest of allowing crediting against such gas would be, whether eliminating or limiting credit rights for that gas would significantly reduce the take-or-pay relief provided by Order No. 500, or whether and what alternative approaches are available to provide adequate take-or-pay relief.

B. New Gas

A number of applicants have expressed concern about the effect of the Order No. 500 crediting mechanism on exploration for, and production of, new gas supplies.[7] They state that a producer will have less incentive to engage in such activities if transportation of new gas it produces will generate credits against the pipeline's take-or-pay obligations to the producer for existing gas supplies. Applicants also observe that exploration for, and development of, new gas often involve the farm-out of undeveloped leases from one producer to another more willing to take the necessary risks. However, Order No. 500's requirement, that the assignor provide the pipeline take-or-pay credits in order for gas produced by the assignee to be transported, discourages such farm-outs. An assignor is unlikely to be willing to offer such credits, but the assignee will not enter into the farm-out in the absence of such an offer.

The Commission agrees that Order No. 500 may reduce exploration for, and development of, new gas supplies. Accordingly, the Commission is modifying the crediting provisions to provide that certain new gas will not generate credits when it is transported over an interstate pipeline. In addition, interstate pipelines may not apply credits arising from the transportation of other gas against their take-or-pay obligations for this new gas. *See* new §§ 284.8(f)(8) and 284.9(f)(8).

The new gas exempt from crediting is defined generally as gas produced from wells spudded after June 23, 1987, which are: (1) 2.5 miles or more from the nearest Order No. 500 marker well, (2) at least 1000 feet below the deepest completion location of each marker well within 2.5 miles, or (3) in a reservoir from which natural gas was not produced in commercial quantities before June 23, 1987. The rule thus defines credit-exempt new gas in a manner generally consistent with the definition of new gas in section 102(c)(1)(B) and (C) of the Natural Gas Policy Act of 1978 (NGPA).[8] This should assure that the gas exempt from crediting under the new gas exemption truly is new gas and avoid exempting from crediting gas from new wells producing from already discovered sources, such as infill wells.[9]

The Commission believes that the benefits of this exemption from crediting will outweigh any reduction in pipeline take-or-pay relief. During the near future the amount of gas exempted from crediting should be relatively small since only a very small proportion of production in the next several years is likely to be from wells spudded after June 23, 1987, and otherwise meeting the definition of new gas adopted here. By the time significant quantities of gas fall into the exemption, the need for credits is likely to be substantially reduced.

C. Intrastate Pipelines and Double Credits

Several applicants state that under Order No. 500 a producer may be required to provide double credits where both an intrastate and an interstate pipeline transport the producer's gas.[10] This possibility allegedly arises where an intrastate pipeline releases gas from a take-or-pay contract between it and the producer and the released gas is then transported over both the intrastate pipeline and an interstate pipeline to the new purchaser. While Order No. 500 does not provide for any credits to the intrastate pipeline, the intrastate pipeline ordinarily would require the producer to provide credits as part of the release agreement. In addition, the producer would have to provide the interstate pipeline Order No. 500 credits against the interstate pipeline's pre-June 23, 1987 take-or-pay obligations to the producer, if any. The Order No. 500 provision in §§ 284.8(f)(5) and 284.9(f)(5) limiting credits to a releasing pipeline where that pipeline and others transport the gas applies only where the releasing pipeline is an interstate pipeline. This is because only interstate pipelines performing open access transportation are eligible for Order No. 500 credits.

In Order No. 500, the Commission sought to minimize double crediting by providing that where an interstate pipeline releases gas, it may receive credits only under its release agreement or Order No. 500, but not both. In addition, as described above, the Commission stated that other pipelines that also transport the gas released by the interstate pipeline may not receive credits under Order No. 500. The Commission recognizes that the potential for double credits where an intrastate pipeline releases the gas may discourage the transportation of gas released by intrastate pipelines into the interstate market. As the applicants state, this would be contrary to the NGPA's goal of integrating the intrastate and interstate markets. Thus, the Commission is sympathetic with the request for relief from double crediting where the intrastate pipeline is the releasing pipeline.

The Commission is also concerned, however, that a modification to the regulations designed to minimize the double crediting problem described above should not provide an opportunity for circumvention of interstate pipelines' Order No. 500 crediting rights, or otherwise substantially reduce the take-or-pay relief afforded by Order No. 500. For example, if the Commission were to allow all gas sold to an intrastate pipeline, and then released, to be exempted from Order No. 500 crediting, it might be possible for gas to be exempted from crediting simply through

[7] *See, e.g.*, comments of Apache Corporation (Apache) at 14; Chevron at 28–30; Huffco at 4–5, 12; Indicated Producers at 51–55; McMoran Oil & Gas Co. (McMoran) at 14–15; and NGSA at 48.

[8] However, a new definition for a marker well is created in this order to avoid allowing gas from certain infill and other nonexploratory wells to obtain crediting exemptions. If the NGPA definition were used, an infill well in a reservoir discovered after April 20, 1977, and before June 23, 1987, could qualify for exemption. The new definitions for qualifying wells are intended to ensure that only gas from post-June 23, 1987, exploration is afforded exemptions.

[9] Although Order No. 500 new gas is exempt from crediting, the current producer/owner of such gas will still be required to submit offers of credits to the transporting pipeline, unless the pipeline agrees to transport the gas without an offer. Of course, since the gas is exempt from crediting the pipeline will not actually receive credits as a result of the offer of credits. In other words, where the new gas is produced from farmed-out acreage, the producer who gave the farm-out need not sign an offer of credits, if all the gas produced from the farmed-out acreage is exempt new gas. Accordingly, the requirements as to who signs offers of credits for new gas are the same as for any other exempt gas. *See* Explanatory Order, 41 FERC at 61,067–68.

[10] *See, e.g.*, Request for Rehearing of ONG Transmission Co. *et al.* (ONG) at 2–7; and Clarifying Comments of Delhi Gas Pipeline Corp. (filed on Dec. 7 1987) (Delhi) at 3.

sale to any intrastate pipeline which would then release the gas.

Accordingly, the Commission has determined to adopt a temporary exemption from crediting for gas released by intrastate pipelines which satisfies certain criteria designed to avoid the circumvention problems described above and to limit the exemption to situations where the producer actually would otherwise provide double credits. *See* new §§ 284.8(f)(9) and 284.9(f)(9). The exemption will apply to transportation performed before April 1, 1988. The Commission requests comments on whether a permanent exemption from crediting for gas released by intrastate pipelines would significantly reduce interstate pipeline take-or-pay relief and how to design such an exemption to minimize circumvention.

The temporary exemption from crediting adopted here will apply when an interstate pipeline transports gas which an intrastate pipeline has released from its system supply under a release agreement providing the intrastate pipeline with take-or-pay credits when it transports that gas. In addition, the intrastate and interstate pipelines must transport the gas in transactions commenced on or before November 15, 1987, and reported to the Commission by each pipeline pursuant to 18 CFR 284.126(a) and 284.106.[11] However, the exemption may in no case cover more than the average daily quantities transported by the interstate pipeline in November 1987 in its reported transaction.

D. Processing Plants

A number of applicants express concern about the effect of Order No. 500 on processing plants which purchase gas from behind-the-plant producers under percentage-of-proceeds contracts and then resell the gas at the tailgate of the plant.[12] Under Order No. 500, a pipeline may refuse to transport such gas, unless it has received offers of credit from the working interest owners of at least 85 percent of the gas tendered for transportation. Applicants state that there may be thousands of working interest owners behind the plant. Applicants state that processing plant operators do not currently keep track of, or even know, who all of those owners are, since the plant owner generally deals only with the lease operators. Thus, applicants maintain that plant owners must develop expensive new accounting systems to keep track of how much gas they purchase from each working interest owner in order to determine if they have obtained signatures representing 85 percent of the gas to be transported. In any event, applicants allege, it will be virtually impossible to obtain the necessary offers by January 1, 1988, and in many cases the working interest owners of 85 percent of the gas will be unwilling ever to offer credits. Applicants assert that plant operators cannot transport only the gas of those producers who offer credits without violating their contracts with other producers or violating state laws such as ratable take requirements. Thus, they state that such processing plants may have to shut down on January 1, 1988, or at least stop the interstate transportation of gas.

In order to avoid these problems, the Indicated Plant Operators propose that the Commission either: (1) Exempt from crediting entirely gas purchased and resold by processing plants or (2) provide that the pipeline may apply credits generated by the transportation of such gas only against the take-or-pay contract between the pipeline and the plant operator from which the gas has been released, if any. Under the second proposal, the processing plant operator, and not the behind-the-plant producers, would sign the offer of credits.

The Commission recognizes that, where a processing plant operator purchases gas from behind-the-plant producers and resells the gas, the offer of credit requirements in Order No. 500 impose an enormous administrative burden on the processing plant operator. There is a significant danger that the operations of such processing plants would be seriously disrupted if those requirements take effect, without modification, on January 1, 1988, for ongoing transportation, since it is unlikely that the necessary offers of credits can be obtained by January 1. Accordingly, the Commission is amending the Order No. 500 regulations, generally consistent with the Indicated Plant Operator's second proposal, in order to provide processing plants temporary relief from this problem. *See* new §§ 284.8(f)(10) and 284.9(f)(10). During the months of January through March, 1988, gas purchased by a processing plant operator under a percentage-of-proceeds contract entered into on or before June 23, 1987, and resold at the tailgate of the plant, will be made eligible for transportation under Part 284 by the submission to the pipeline of an offer of credits signed only by the processing plant operator. The transportation of that gas shall generate take-or-pay credits under Order No. 500 but the pipeline may apply those credits only against its take-or-pay obligations under the pre-June 23, 1987, contract with the plant operator from which the pipeline has released that gas. If the gas has not been released from such a contract, the pipeline will not receive any credits.

This temporary modification in the requirements for making gas purchased by processing plants under percentage-of-proceeds contracts eligible for transportation should minimize disruption of processing plant operations when the crediting provisions of Order No. 500 become effective for ongoing transportation on January 1, 1988, since the administrative burden of obtaining offers of credits from potentially thousands of behind-the-plant producers before January 1 is eliminated. The public interest in avoiding such disruption resulting from a change in regulation outweighs the possible temporary reduction in pipeline take-or-pay relief resulting from this change. The Commission observes, however, that this change in the Order No. 500 crediting mechanism does not apply to all processed gas but only to gas that is purchased by processing plants and subject to percentage-of-proceeds operating agreement.

The Commission requests comment on whether the modifications adopted here with respect to processing plants should be continued beyond March 31, 1988. In particular, the Commission requests comments on the effect of this change on the take-or-pay relief afforded pipelines by the crediting mechanism. The Commission is also interested in other methods of treating processing plants under Order No. 500 which avoid the administrative burdens described above without exacerbating pipeline take-or-pay problems

E. Guarantors

A number of applicants have pointed out other situations, apart from the processing plant problem discussed above, where satisfying the Order No. 500 offer of credit requirement causes significant administrative burdens.[13]

[11] Since reports under §§ 284.126(a) and 284.106 are due within 30 days of the commencement of a transaction, the requirement that these transactions must have commenced on or before November 15, 1987, assures that the transactions have been reported to the Commission before the issuance of this order

[12] *See, e.g.*, Joint Emergency Motion for Clarification, Modification and Partial Stay of Indicated Plant Operators (filed Nov 12, 1987); Motion of Gas Processor's Association (filed Dec. 4, 1987); Comments of Pogo Producing Co. (filed Dec. 8, 1987); and Mobil rehearing request at 21–22.

[13] *See e.g.* ONG application for rehearing at 8–9; Motion of Hadson Gas Systems, Inc. (Hadson) for clarification (filed Nov. 30, 1987) at 5, 11–14; and comments of Gulf Energy Gathering and Processing Corp. at 2–3; and of Houston Pipe Line Co. at 3–5.

For example, in order for an intrastate or interstate pipeline's system supply to be transported over an open access interstate pipeline, offers of credits are required from the thousands of working interest owners of the leases from which that system supply comes. Similarly, marketers may aggregate gas from many working interests. The administrative burdens of obtaining offers of credits in these situations cannot be significantly mitigated by the type of change in the regulations adopted for processing plants. The gas in question in these other situations generally has not been released by the transporting pipeline from a take-or-pay contract.

However, in order to provide some relief in these other situations, the Commission will permit the shipper, or anyone else, to act as guarantor for nonsigning working interest owners. *See* new §§ 284.8(f)(11) and 284.9(f)(11). Thus, even where the working interest owners of 85 percent of the gas in question have not signed offers of credits, the Commission will nevertheless require the pipeline to transport the gas where another party [14] offers to make the pipeline whole for its loss of take-or-pay credits resulting from the lack of offers of credits for 85 percent of the gas. The person so offering to act as guarantor shall specify the producers whose gas is being transported. The pipeline will be required to transport gas once it has received, with respect to 85 percent of that gas, either offers of credits from the working interest owners of that gas, or offers to act as guarantor. The person acting as guarantor shall compensate the pipeline for any take-or-pay or take-and-pay payments the pipeline makes for gas which that person guaranteed and which the pipeline has transported without credits. The pipeline must inform the guarantor of this amount.

This amendment will enable shippers willing to act as guarantors to obtain transportation of any gas. For example, a shipper might want to offer to act as guarantor where the working interest owners of almost, but not quite, 85 percent of the gas tendered for transportation have offered credits or where producers are unwilling to sign offers of credits even though their gas is exempt from crediting. A shipper might be willing to make such a guarantee to get the gas transported where the shipper knows that the working interest owners that have not signed offers do not have take-or-pay contracts with the pipeline.

[14] That party may be the pipeline whose system supply is to be transported, the marketer, or anyone else.

The Commission emphasizes that the decision to act as guarantor is entirely at the discretion of the guarantor and is intended solely as a substitute for offers of credits from the working interest owners themselves. Where the necessary working interest owners have signed offers of credits, the pipeline must transport the gas and cannot, in addition, require the shipper to act as guarantor.

The Commission remains concerned about the administrative burdens imposed by Order No. 500 on intrastate and interstate pipelines seeking to have system supply gas transported on an interstate pipeline. The Commission requests comment on what other changes in the crediting regulations could be made to address this problem and what the effect of those changes would be on the take-or-pay relief afforded by Order No. 500.

F. Stay Requests

A number of producers, marketers, and end-users have requested that the Commission stay further implementation of the Order No. 500 crediting provisions, until after the winter heating season or the issuance of a final rule in this docket.[15] They state that, without a stay, significant quantities of gas may be removed from the spot market causing increases in the spot market price of gas. Applicants point to the administrative difficulty of obtaining offers of credits from all the necessary working interest owners in situations such as where processing plants resell residue gas. They also state that producers may be unwilling to incur the costs of providing credits against pipeline take-or-pay obligations. Applicants observe that prices have already increased significantly in the spot market and allege that this is largely because of the uncertainties created by Order No. 500.

The Commission denies the stay requests. The Commission believes that implementation of crediting is necessary in order that the Commission continue to address, on an interim basis, the concerns of the United States Court of Appeals for the District of Columbia regarding pipeline take-or-pay problems set forth in *Associated Gas Distributors* v. *FERC (AGD)*, 824 F.2d 981 (D.C. Cir. 1987). Addressing those concerns on an interim basis is necessary in order for the Commission to meet the standards set forth in *Mid-Tex Electric Cooperative, Inc.* v. *FERC (Mid-Tex)*, 822 F.2d 1123, 1131 (D.C. Cir. 1987), for issuing an interim rule without notice and comment while the Commission develops a final rule responding to the Court's concerns. The modifications to crediting adopted in this rule should mitigate any disruptions in the spot market resulting from the implementation of crediting. For example, the administrative burdens on processing plants operators have been substantially reduced. Also, the elimination of crediting against minimum take obligations for casinghead gas removes producers' concern about the effect of Order No. 500 on casinghead gas, at least for transportation through March 31, 1988.

[15] *See, e.g.*, Motion for reconsideration and/or request for rehearing of Mobil at 19, Application for rehearing of Union Texas at 4-6; Motion of Krupp & Associates to Stay Implementation of Orders 500 & 500B to June 1, 1988 (filed December 2, 1987); and Hadson's motion for clarification at 3-10, 14.

This order is a further improvement of the original crediting mechanism in the Interim Rule adopted by Order No. 500 generally consistent with the Court's July 17, 1987 order in the *AGD* case, granting the Commission's Motions to Lodge Agency Order and to Allow Agency Order to Issue, and the standards for an Interim Rule set forth in the same Court's opinion in *Mid-Tex*. The Commission here, pursuant to the *Mid-Tex* standards, has sought to provide refined "interim procedures" for take-or-pay crediting, "that are adequate, as a temporary measure, to afford some protection" to interstate natural gas pipelines, and which "strike a reasonable balance, fairly accommodating the interests of all affected parties, while the Commission considers a permanent solution" to the take-or-pay issue. *Mid-Tex* at 1133. The Commission also is attempting, in accordance with the Court's July 17 Order, "to ensure that natural gas be kept flowing during the transition period and that uncertainty be minimized to the greatest extent possible." Memorandum Accompanying Order at 1.

The Commission has concluded that it has an obligation under *AGD* and related court orders to implement the interim procedures for take-or-pay crediting on January 1, 1988. But, it has attempted here to refine them in a manner that will further mitigate certain unnecessary and unintended effects of the crediting mechanism in the Interim Rule. Thus, the Commission intends that these refined interim procedures will strike a more reasonable balance and better accommodate the interests of all affected parties, as well as reduce uncertainty and better ensure that natural gas is kept flowing. Since the crediting mechanism must be effective on January 1, 1988, the refinements in this order are necessary and appropriate to achieve those objectives.

G. Other Matters

There are several other matters on which the Commission is not taking action at this time, but as to which it requests comment. First, the Commission is considering requiring interstate pipelines to publish a list of producers with which the pipelines have significant take-or-pay obligations. Those producers would be required to offer the pipeline credits in order to obtain transportation. However, the pipeline would be required to transport the gas of other producers without offers of credits. The pipeline's publication of the list of the producers with whom it has significant take-or-pay obligations would enable purchasers of gas, including end-users and marketers, to know the gas which requires offers of credits in order to receive transportation. The Commission requests comment on this proposal. In addition, it requests that comments address what standards should be used to determine what constitutes a significant take-or-pay obligation.

The Commission is also considering publishing a list of pipelines without significant take-or-pay obligations to producers. Pipelines on this list would be required to transport without offers of credits. This would enable shippers to know which pipelines must transport all producers' gas without such offers and therefore facilitate the transportation of shipper-owned gas. The Commission requests comment on this proposal and its implementation.

Third, the Commission is considering limiting the pipelines which must be offered credits under Order No. 500 to interstate pipelines which have accepted blanket certificates to provide open access transportation under Order No. 500. This would mean that pipelines performing only NGPA section 311 transportation would not be eligible for Order No. 500 credits. The Commission is concerned that, without this limitation, a pipeline might perform NGPA section 311 transportation only in order to obtain Order No. 500 credits and once it no longer needed such credits, cease all open access transportation. This is not a danger where the pipeline accepts a blanket certificate, because in that situation a pipeline must continue open-access transportation until the Commission authorizes it to cease such transportation. The Commission requests comment on this proposal.

Fourth, some producers have expressed concern that they must present offers of credits to pipelines without knowing against which of their contracts with the pipeline the pipeline will apply the credits. The Commission is sympathetic with the problems this causes producers in making an informed business judgment as to whether to offer credits in order to obtain transportation. The Commission requests comment whether pipelines should be required to provide producers notice as to the contracts against which they will apply credits. The Commission also requests comment on the specific procedures which might be adopted to govern the giving of such notice and whether a notice requirement would in any way adversely affect the take-or-pay relief afforded pipelines by Order No. 500.

Additionally, applicants have expressed concern about the effect of the crediting mechanism on property assignments and transfers. The Commission is concerned about the effect of Order No. 500 on property transfers. However, the Commission also remains concerned that assignments may provide an opportunity for circumvention of the crediting mechanism. The actions taken in this order, including particularly those with regard to new gas and guarantors, and the actions taken in Order No. 500-B should mitigate to some extent the impediments to property transfers resulting from Order No. 500. The Commission requests comment on whether further action is necessary to reduce impediments to transfers and what effect those actions might have on the take-or-pay relief provided by Order No. 500.

The Commission has learned through communications to its Enforcement Task Force that some pipelines are seeking to require producers to sign offer of credit forms provided by the pipeline. In some cases these forms require producers to provide information or offer relief not required by Order No. 500. The Commission emphasizes that producers may use their own forms in making offers of credits and that a pipeline cannot refuse to accept a form that complies with the minimum information requirements of Order No. 500, even though the form differs from the pipeline's form. In this regard, the Commission published samples of acceptable offers of credits with its Order Explaining Crediting Provisions of Order No. 500 that could be used by producers. These forms contain all the information necessary to comply with Order No. 500. The Commission is republishing those forms with this order.

Finally, the Commission emphasizes that the pipeline and the shipper or producer may agree that the pipeline will transport the gas without the submission of an offer of credits. This enables pipelines and producers to settle take-or-pay liabilities outside the Order No. 500 crediting procedures.

III. Effective Date and Administrative Findings

The amendments to the crediting regulations adopted in this order will become effective upon issuance of this order. The Commission finds that these amendments may be made effective without 30 days advance publication under APA section 553(d). Immediate effectiveness is in the public interest, since the amendments relieve restrictions on the ability of producers and shippers of gas to obtain interstate transportation of gas. *See* 5 U.S.C. 553(d)(3) (1982). With respect to the substance of these changes, the Commission adopts and incorporates in support hereof the administrative findings stated in Part VI of Order No. 500.[16]

All credits generated by transportation performed before issuance of this order will be determined in accordance with the regulations in effect before issuance of this order. All credits generated by transportation performed on or after issuance of this order will be determined in accordance with the regulations adopted by this order, regardless of whether the producer's offer of credits was submitted before issuance of this order.

IV. Public Comment Procedures

Interested parties are invited to submit written comments with respect to the issues raised in this order. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Comments should refer to Docket No. RM87-34-000 on the outside of the envelope and on all documents submitted to the Commission. Fourteen (14) copies should be submitted with the original.

To facilitate the Commission's analysis, the Commission urges commenters to provide a 3-5 page executive summary of their positions on the issues covered by their comments. Additionally, commenters should double space their comments, and provide a concise description identifying themselves.

All comments received by the Commission by January 22, 1988, will be considered prior to the promulgation of a final rule. Copies of the written

[16] Order No. 500, FERC Stats. and Regs. ¶ 30,761 at 30,798-99.

comments may be obtained from the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. Comments are available for public inspection during business hours at the same location. Copies of comments will be available for purchase.

In consideration of the foregoing, the Commission amends Part 284, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

By the Commission. Commissioner Naeve concurred with a separate statement attached.

Lois D. Cashell,

Acting Secretary.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for Part 284 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982), as amended; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp. p. 142.

2. In § 284.8, paragraph (f)(4)(ii) is amended by adding after the first sentence a sentence to read as follows:

§ 284.8 Firm transportation service.

* * * * *

(f) * * *

(4) * * *

(ii) * * * However, the pipeline may not apply credits arising from transportation performed before April 1, 1988, against its obligation, under a take-and-pay contract, to take gas which under state law in effect on June 23, 1987, was defined as casinghead gas.

* * * * *

3. In § 284.8, paragraphs (f)(8) through (f)(11) are added to read as follows:

§ 284.8 Firm transportation service.

* * * * *

(f) * * *

(8) *New natural gas.* Notwithstanding the above provisions, a producer is not required under this section to provide credits with respect to take-or-pay or take-and-pay obligations in order to obtain transportation of Order No. 500 new natural gas, as defined in paragraph (i). Also, a pipeline may not apply credits arising from the transportation of other gas against take-or-pay or take-and-pay obligations for Order No. 500 new natural gas.

(i) Order No. 500 new natural gas is:

(A) Natural gas produced from an Order No. 500 new well (as defined in paragraph ii) which is 2.5 miles or more from the nearest Order No. 500 market well (as defined in paragraph iii) or from any completion location of any Order No. 500 new well which is located at a depth at least 1,000 feet below the deepest completion location of each Order No. 500 marker well within 2.5 miles of such new well, or

(B) Natural gas produced from an Order No. 500 new well and from a reservoir from which natural gas was not produced in commercial quantities before June 23, 1987.

(ii) An Order No. 500 new well is any well the surface drilling of which began on or after June 23, 1987, or the depth of which was increased, by means of drilling on or after June 23, 1987, to a completion location which is located at least 1,000 feet below the depth of the deepest completion location of such well attained before June 23, 1987.

(iii) An Order No. 500 marker well is any well from which natural gas was produced in commercial quantities at any time after January 1, 1970, and before June 23, 1987.

(iv) For purposes of determining the distance from any Order No. 500 new well to any Order No. 500 marker well, the measurement shall be the horizontal distance from the surface location of the Order No. 500 new well to the surface location of the Order No. 500 marker well.

(9) *Intrastate system supply.* Notwithstanding the above provisions, a producer is not required under this section to provide credits with respect to take-or-pay or take-and-pay obligations in connection with an interstate pipeline's transportation from January 1, 1988, through March 31, 1988, of gas released from an intrastate pipeline's system supply gas, for average daily quantities transported by the interstate pipeline which do not exceed the average daily quantities transported in November 1987 under its reported transaction, if:

(i) The intrastate pipeline has released that gas under a release agreement providing the intrastate pipeline take-or-pay credits for transporting that gas against the pipeline's take-or-pay or take-and-pay liability under the contract from which the gas has been released,

(ii) The intrastate pipeline and interstate pipeline transport the gas in transactions commenced on or before November 15, 1987,

(iii) The intrastate pipeline reported its transportation transaction to the Commission pursuant to § 284.126(a), and

(iv) The interstate pipeline reported its transportation transaction to the Commission pursuant to § 284.106.

(10) *Special rule for certain processing plant resales.*

(i) Until April 1, 1988, natural gas which a processing plant operator purchased under percentage-of-proceeds contracts, entered into on or before June 23, 1987, with behind-the-plant producers and which the processing plant operator resells at the plant's tailgate is eligible for transportation by interstate pipelines when:

(A) The pipeline and the shipper or processing plant operator agree, or

(B) An offer has been submitted to the pipeline: (*1*) Signed by the processing plant operator and (*2*) identifying the gas made eligible for transportation through the filing of the offer, (*3*) which, upon acceptance of the pipeline, will result in a contract binding on the processing plant operator to grant the pipeline credits, as provided in this section subject to the limitation in paragraph (f)(10)(ii), in connection with the transportation of the subject gas.

(ii) Credits arising from the transportation from January 1, 1988, through March 31, 1988, of the gas described in paragraph (f)(10)(i) may be applied only against the transporting pipeline's take-or-pay or take-and-pay obligation under a pre-June 23, 1987, contract with the processing plant operator from which that pipeline has released the transported gas.

(11) *Offers to act as guarantor.* (i) Where the working interest owners of 85 percent of the gas tendered for transportation do not sign offers of credits, that gas nevertheless shall be eligible for transportation if some other person offers to act as guarantor for nonsigning producers such that 85 percent of the gas is covered either by offers of credits or offers to act as guarantor.

(ii) An offer to act as guarantor must:

(A) Identify the gas which will be transported pursuant to the offer and the producer of that gas,

(B) Be signed by the guarantor, and

(C) Constitute an offer, which upon acceptance by the pipeline, will result in a contract binding on the guarantor to pay the pipeline the amount by which the pipeline's take-or-pay or take-and-pay payments to the producer would have been reduced had the producer offered the pipeline credits under Order No. 500.

4. In § 284.9, paragraph (f)(4)(ii) is amended by adding after the first sentence a sentence to read as follows:

§ 284.9 Interruptible transportation service.

* * * * *

(f) * * *

(4) * * *

(ii) * * * However, the pipeline may not apply credits arising from transportation performed before April 1, 1988, against its obligation, under a take-and-pay contract, to take gas which under state law in effect on June 23, 1987, was defined as casinghead gas.

* * * * *

5. In § 284.9, paragraphs (f)(8) through (f)(11) are added to read as follows:

§ 284.9 Interruptible transportation service.

* * * * *

(f) * * *

(8) *New natural gas.* Notwithstanding the above provisions, a producer is not required under this section to provide credits with respect to take-or-pay or take-and-pay obligations in order to obtain transportation of Order No. 500 new natural gas, as defined in paragraph (i). Also, a pipeline may not apply credits arising from the transportation of other gas against take-or-pay or take-and-pay obligations for Order No. 500 new natural gas.

(i) Order No. 500 new natural gas is:

(A) Natural gas produced from an Order No. 500 new well (as defined in paragraph ii) which is 2.5 miles or more from the nearest Order No. 500 marker well (as defined in paragraph iii) or from any completion location of any Order No. 500 new well which is located at a depth at least 1,000 feet below the deepest completion location of each Order No. 500 marker well within 2.5 miles of such new well, or

(B) Natural gas produced from an Order No. 500 new well and from a reservoir from which natural gas was not produced in commercial quantities before June 23, 1987.

(ii) An Order No. 500 new well is any well the surface drilling of which began on or after June 23, 1987 or the depth of which was increased, by means of drilling on or after June 23, 1987, to a completion location which is located at least 1,000 feet below the depth of the deepest completion location of such well attained before June 23, 1987.

(iii) An Order No. 500 marker well is any well from which natural gas was produced in commercial quantities at any time after January 1, 1970, and before June 23, 1987.

(iv) For purposes of determining the distance from any Order No. 500 new well to any Order No. 500 marker well, the measurement shall be the horizontal distance from the surface location of the Order No. 500 new well to the surface location of the Order No. 500 marker well.

(9) *Intrastate system supply.* Notwithstanding the above provisions, a producer is not required under this section to provide credits with respect to take-or-pay or take-and-pay obligations in connection with an interstate pipeline's transportation from January 1, 1988, through March 31, 1988, of gas released from an intrastate pipeline's system supply gas, for average daily quantities transported by the interstate pipeline which do not exceed the average daily quantities transported in November 1987 under its reported transaction, if:

(i) The intrastate pipeline has released that gas under a release agreement providing the intrastate pipeline take-or-pay credits for transporting that gas against the pipeline's take-or-pay or take-and-pay liability under the contract from which the gas has been released,

(ii) The intrastate pipeline and interstate pipeline transport the gas in transactions commenced on or before November 15, 1987,

(iii) The intrastate pipeline reported its transportation transaction to the Commission pursuant to § 284.126(a), and

(iv) The interstate pipeline reported its transportation transaction to the Commission pursuant to § 284.106.

(10) *Special rule for certain processing plant resales.*

(i) Until April 1, 1988, natural gas which a processing plant operator purchased under percentage-of-proceeds contracts, entered into on or before June 23, 1987, with behind-the-plant producers and which the processing plant operator resells at the plant's tailgate is eligible for transportation by interstate pipelines when:

(A) The pipeline and the shipper or processing plant operator agree, or

(B) An offer has been submitted to the pipeline: (*1*) Signed by the processing plant operator and (*2*) identifying the gas made eligible for transportation through the filing of the offer, (*3*) which, upon acceptance of the pipeline, will result in a contract binding on the processing plant operator to grant the pipeline credits, as provided in this section subject to the limitation in paragraph (f)(10)(ii), in connection with the transportation of the subject gas.

(ii) Credits arising from the transportation from January 1, 1988, through March 31, 1988, of the gas described in paragraph (f)(10)(i) may be applied only against the transporting pipeline's take-or-pay or take-and-pay obligation under a pre-June 23, 1987, contract with the processing plant operator from which that pipeline has released the transported gas.

(11) *Offers to act as guarantor.* (i) Where the working interest owners of 85 percent of the gas tendered for transportation do not sign offers of credits, that gas nevertheless shall be eligible for transportation if some other person offers to act as guarantor for nonsigning producers such that 85 percent of the gas is covered either by offers of credits or offers to act as guarantor.

(ii) An offer to act as guarantor must:

(A) Identify the gas which will be transported pursuant to the offer and the producer of that gas,

(B) Be signed by the guarantor, and

(C) Constitute an offer, which upon acdeptance by the pipeline, will result in a contract binding on the guarantor to pay the pipeline the amount by which the pipeline's take-or-pay or take-and-pay payments to the producers would have been reduced had the producer offered the pipeline credits under Order No. 500.

Example of a General Offer of Credits

OFFER OF TAKE-OR-PAY OR TAKE-AND-PAY CREDITS UNDER FERC ORDER NO. 500

The undersigned hereby offer(s) to grant the interstate pipeline(s) listed below any take-or-pay or take-and-pay credits required under 18 CFR 284.8(f)(1)(ii) and 284.9(f)(1)(ii) in connection with the transportation of all gas under lease to the undersigned on ———— [date] ———. Upon acceptance by the pipeline(s) listed below, this offer will result in a contract binding on the undersigned and its/their assignees.

Interstate Pipelines:

[Specify the transporting pipeline(s)]

———————————

Name of Producer/Working Interest Owner

———————————

Date

———————————

Signature of Producer/Working Interest Owner of Agent

Example of An Offer of Credits Covering Specific Gas

OFFER OF TAKE-OR-PAY OR TAKE-AND-PAY CREDITS UNDER FERC ORDER NO. 500

The undersigned hereby offer(s) to grant the interstate pipeline(s) listed below any take-or-pay or take-and-pay credits required under 18 CFR

284.8(f)(1)(ii) and 284.9(f)(1)(ii) in connection with the transportation of the gas under lease to the undersigned on ——— [date] ——— from the wells specified below. Upon acceptance by the pipeline(s) listed below, this offer will result in a contract binding on the undersigned and its/their assignees. This agreement will be terminated after ——— [specify period of transportation] ———.

Interstate Pipeline(s):

[Specify the transporting pipeline(s)]

Wells covered by this agreement:

Well Name:	*Well Location:*	*Undersigned's Ownership Interest (%)*

Name of Producer/Working Interest Owner

Date

Signature of Producer/Working Interest Owner or Agent

ORDER NO. 500-C

Issued December 23, 1987.

Commissioner C. M. Naeve, concurring:

Although these changes in the Order 500 crediting mechanixm are different in particular respects from those which I would make, I nonetheless support this Order because it reduces the potential for disruption of gas markets. I am hopeful that in preparing the final rule, the Commission will continue to search for ways to address the Court's concerns in *Associated Gas Distributors* without imposing undue restraints on competition in the natural gas industry.

C. M. Naeve,

Commissioner.

[FR Doc 87-29785 Filed 12-28-87; 8:45 am]

BILLING CODE 6717-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR 201, 212 and 213

Amendment of Rules of Practice and Procedure To Reflect Commission Change of Address

AGENCY: U.S. International Trade Commission.

ACTION: Amendment of rules.

SUMMARY: The Commission is in the process of relocating its offices from its present location at 701 E Street NW., Washington, D.C., to its new location at 500 E Street SW., Washington, D.C. The Commission expects the move to be completed by January 11, 1988. The Commission's ZIP code will remain unchanged at 20436.

EFFECTIVE DATE: January 11, 1988.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Mason, Secretary, U.S. International Trade Commission, Washington, D.C. 20436 (telephone through January 8, 1988: 202-523-0161; on January 11, 1988, and thereafter: 252-1000).

SUPPLEMENTARY INFORMATION: These amendments are considered to be of an administrative and non-substantive nature and accordingly are being made without opportunity for public comment.

List of Subjects in 19 CFR Parts 201, 212, and 213

Administrative practice and procedure, Claims, Imports.

Authority: 19 U.S.C. 1335, etc.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: December 15, 1987.

Therefore, Chapter II of Title 19 of the Code of Federal Regulations is amended as follows:

PARTS 201, 212, AND 213 [AMENDED]

1. The authority citation for Part 201 continues to read as follows:

Authority. Sec. 335, 72 Stat. 680, sec. 401, 76 Stat. 902; 19 U.S.C. 1335, 1802, unless otherwise noted.

2. The authority citation for Part 212 continues to read as follows:

Authority: Sec. 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

3. The authority citation for Part 213 continues to read as follows:

Authority. Sec. 339 of the Tariff Act of 1930 (19 U.S.C. 1339), as added by sec. 221, Trade and Tariff Act of 1984 (Pub. L. 98-573, approved Oct. 30, 1984; 98 Stat. 2989); sec. 335, Tariff Act of 1930 (72 Stat. 680; 19 U.S.C. 1335).

§§ 201.3, 201.6, 201.17, 201.19, 201.23, 201.24, 201.25, 201.28, 201.29, 201.41, 201.170, 212.29, 213.4, and 213.7 [Amended]

4. (1) Substitute "500 E Street SW." for "701 E Street NW" or "on E Street between 7th and 8th Streets NW.", as the case may be, at §§ 201.3(a), 201.3(b), 201.6(b), 201.6(e), 201.6(f), 201.23(e), 201.24(a), 201.25(b), 201.28(a), 201.29(a), 201.41(b), 201.170(c), 212.29, 213.4(a), and 213.7 of the rules and at any other place in the rules that these terms are presently found; (2) to add the term "500 E Street SW." after the term "United States International Trade Commission" in §§ 201.17(a) and 201.19(a) of the rules; and (3) to delete the term "Room 130" in § 213.7 of the rules.

[FR Doc. 87-29423 Filed 12-28-87; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8169]

Income Tax; Taxable Years of Certain Partnerships

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the appropriate taxable year for certain partnerships. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register.** The temporary regulations reflect an amendment to section 706(b) of the Internal Revenue Code with respect to the taxable years of certain partnerships as made by section 806 of the Tax Reform Act of 1986 and provide guidance to partnerships with respect to the new provision.

DATES: The regulations contained in this document will be effective for partnership taxable years beginning after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, Attention: CC:LR:T. (202-566-3297, not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

Prior to its amendment by section 806 of the Tax Reform Act of 1986 (H.R. 3838, Pub. L. 99-514, "the Act"), section 706(b) required a partnership adopting or changing a taxable year to use the same taxable year as the taxable year of all of its principal partners (or the calendar year, if all the partnership's principal partners did not have the same taxable year), unless the partnership established, to the satisfaction of the Secretary of the Treasury, a business purpose for selecting a different taxable year.

Section 706(b), as amended by section 806 of the Act, requires that any

partnership (except where a business purpose for some other taxable year is established) must conform its taxable year to (a) the taxable year of one or more of its partners who have an aggregate interest in partnership profits and capital of greater than 50 percent, (b) if no taxable year is described in (a), the taxable year of all of its principal partners, or (c) if no taxable year is described in (a) or (b), the calendar year or such other year as may be prescribed by regulations.

This document, under the authority of section 706(b)(1)(B)(iii), prescribes rules for determining when the calendar year will not be an appropriate taxable year for the partnership and which year will be appropriate in such cases.

Explanation of Provisions

Section 1.706–1T(a) generally provides that, if a partnership is unable to determine its taxable year by reference to the taxable year of its partners owning a majority interest in partnership profits and capital (as described in section 706(b)(1)(B)(i)) or by reference to the taxable year of all of its principal partners (as described in section 706(b)(1)(B)(ii)), its taxable year is the year that results in the least aggregate deferral of income to the partners. Deferral to each partner is measured in terms of months from the end of the partnership's taxable year forward to the end of the partner's taxable year. The taxable year that results in the least aggregate deferral of income to the partners is determined under § 1.706–1T(a)(2) by comparing the deferral that would result to the partners if a particular partner's taxable year were the partnership's taxable year. Rules are also provided to minimize the number of changes in the partnership's taxable year under section 706(b)(1)(B)(iii) where there would be a de minimis change in the aggregate deferral to the partners.

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

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. The reporting requirements added by this document have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. The reporting requirements have been approved by OMB under 1545–0099.

Drafting Information

The principal author of these temporary regulations is Gail H. Morse of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.701–1—1.771–1

Income taxes, Partnerships.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1 and 602 are amended as follows:

PART 1—[AMENDED]

Income Taxes

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. section 7805. * * * Section 1.706–1T also issued under 26 U.S.C. 706(b).

Par. 2. A new §1.706–1T is added immediately following existing §1.706–1 to read as follows:

§1.706–1T Taxable years of certain partnerships (temporary).

(a) *Taxable year determined by reference to the partners*—(1) *In general.* If for any taxable year a partnership's taxable year cannot be determined by reference to the taxable year of its partners owning a majority interest in partnership profits and capital (as described in section 706(b)(1)(B)(i)) or by reference to the taxable year of all its principal partners (as described in section 706(b)(1)(B)(ii)), then the partnership must determine its taxable year under section 706(b)(1)(B)(iii). Under section 706(b)(1)(B)(iii), the taxable year of the partnership, except as provided in paragraph (b) of this section, shall be the taxable year that results in the least aggregate deferral of income to the partners (as determined under paragraph (a)(2) of this section).

(2) *Taxable year that results in the least aggregate deferral of income.* The taxable year that results in the least aggregate deferral of income will be the taxable year of one or more of the partners in the partnership which will result in the least aggregate deferral of income to the partners. The aggregate deferral for a particular year is equal to the sum of the products determined by multiplying the month(s) of deferral for each partner that would be generated by that year and each partner's interest in partnership profits for that year. The partner's taxable year that produces the lowest sum when compared to the other partner's taxable years is the taxable year that results in the least aggregate deferral of income to the partners. If the calculation results in more than one taxable year qualifying as the taxable year with the least aggregate deferral, the partnership may select any one of those taxable years as its taxable year. However, if one of the qualifying taxable years is also the partnership's existing taxable year, the partnership must maintain its existing taxable year. The determination of the taxable year that results in the least aggregate deferral of income generally be made as of the beginning of the partnership's current taxable year. The district director, however, may determine that the first day of the current taxable year is not the appropriate testing day and require the use of some other day or period that will more accurately reflect the ownership of the partnership and thereby the actual aggregate deferral to the partners where the partners engage in a transaction that has as its principal purpose the avoidance of the principles of this section. Thus, for example the preceding sentence would apply where there is a transfer of an interest in the partnership that results in a temporary transfer of that interest principally for purposes of qualifying for a specific taxable year under the principles of this section. For purposes of this section, deferral to each partner is measured in terms of months from the end of the partnership's taxable year forward to the end of the partner's taxable year.

(3) *Determination of the taxable year of a partner or partnership that uses a 52–53 week taxable year.* For purposes of the calculation described in paragraph (a)(2) of this section, the taxable year of a partner or partnership that uses a 52–53 week taxable year shall be the same year determined under the rules of section 441(f) and the regulations thereunder with respect to the inclusion of income by the partner or partnership.

(4) *Special de minimis rule.* If the taxable year that results in the least aggregate deferral produces an aggregate deferral that is less than .5

when compared to the aggregate deferral of the current taxable year, the partnership's current taxable year shall be treated as the taxable year with the least aggregate deferral. Thus, the partnership will not be permitted to change its taxable year. However, this de minimis rule will not apply to the first taxable period beginning after December 31, 1986.

(b) *Business purpose.* A partnership may have a taxable year other than the year described in paragraph (a) of this section if it establishes, to the satisfaction of the Commissioner of Internal Revenue, a business purpose for such taxable year in accordance with and under the procedures established in § 1.442-1(b)(1). For purposes of this paragraph (b), any deferral of income to partners shall not be treated as a business purpose.

(c) *Procedural requirements and effective date*—(1) *In general.* The change in accounting period required by paragraph (a) of this section shall be treated as initiated by the partnership and made with the consent of the Commissioner. To effect the change, a partnership must show that the requirements of this section are satisfied in a statement setting forth the computations required to establish the taxable year that results in the least aggregate deferral of income to the partners under paragraph (a) of this section. The partnership must attach the statement to the income tax return for the short period involved in the changes and must indicate the following at the top of page 1 of the return: "FILED UNDER § 1.706-1T."

(2) *Effective date*—(i) *In general.* Except as provided in paragraph (c)(2)(ii) of this section, the rules of this section are effective for partnership taxable years beginning after December 31, 1986.

(ii) *Special rule for first taxable year beginning after December 31, 1986.* A partnership otherwise required to change its accounting period for its first taxable year beginning after December 31, 1986 to a year resulting in the least aggregate deferral of income to its partners under paragraph (a) of this section, may, at its option, delay the application of the rules of that paragraph until its first taxable year beginning after December 31, 1987. In such a case, the partnership must conform its first taxable year beginning after December 31, 1986 to the calendar year and must apply the rules of paragraph (a) of this section to its first taxable year beginning after December 31, 1987. See § 1.702-3T(a)(1) regarding the availability of a 4-year spread provision with respect to a partnership required to change its taxable year for its first taxable year beginning after December 31, 1986.

(iii) *Special eligibility for 4-year spread; years beginning after December 31, 1987.* Notwithstanding the provisions of § 1.702-3T(a)(1) limiting the availability of the 4-year spread provisions to a partnership's first taxable year beginning after December 31, 1986, if—

(A) A partnership is required under section 706(b)(1)(B)(iii) and paragraph (a) of this section to change to a taxable year that results in the least aggregate deferral of income to the partners for a partnership's first taxable year beginning after December 31, 1987,

(B) The partnership did exercise its option, as provided in paragraph (c)(2)ii) of this section, to delay the application of the rules of paragraph (a) of this section until the partnership's first taxable year beginning after December 31, 1987, and

(C) The partnership would have been required to change its accounting period under section 706(b)(1)(B)(iii) and paragraph (a) of this section for its first taxable year beginning after December 31, 1986, if paragraph (a) of this section had been applicable to such taxable year, the partners in the partnership will be eligible to utilize the 4-year spread provision provided in § 1.702-3T (subject to the other requirements of that section) with respect to the partnership's change in accounting period required under section 706(b)(1)(B)(iii) and paragraph (a) of this section for the partnership's first taxable year beginning after December 31, 1987.

(d) *Examples.* The principles of this section may be illustrated by the following examples:

Example (1). Partnership P is on a fiscal year ending June 30. Partner A reports income on the fiscal year ending June 30 and Partner B reports income on the fiscal year ending July 31. A and B each have a 50 percent interest in partnership profits. For its taxable year beginning July 1, 1987, the partnership will be required to retain its taxable year since the fiscal year ending June 30 results in the least aggregate deferral of income to the partners. This determination is made as follows:

Test 6/30	Year End	Interest in Partnership Profits	Months of Deferral for 6/30 Year End	Interest x Deferral
Partner A	6/30	.5	0	0
Partner B	7/31	.5	1	.5
Aggregate deferral				.5

Test 7/31	Year End	Interest in Partnership Profits	Months of Deferral for 7/31 Year End	Interest x Deferral
Partner A	6/30	.5	11	5.5
Partner B	7/31	.5	0	0
Aggregate deferral				5.5

Example (2). The facts are the same as in *Example (1)* except that A reports income on the calendar year and B reports on the fiscal year ending November 30. For the partnership's taxable year beginning July 1, 1987, the partnership is required to change its taxable year to a fiscal year ending November 30 because such year results in the least aggregate deferral of income to the partners. This determination is made as follows:

Test 12/31	Year End	Interest in Partnership Profits	Months of Deferral for 12/31 Year End	Interest x Deferral
Partner A	12/31	.5	0	0
Partner B	11/30	.5	11	5.5
Aggregate deferral				5.5

Test 11/30	Year End	Interest in Partnership Profits	Months of Deferral for 11/30 Year End	Interest x Deferral
Partner A	12/31	.5	1	.5
Partner B	11/30	.5	0	0
Aggregate deferral				5.5

Example (3). The facts are the same as in *Example (2)* except that B reports income on the fiscal year ending June 30. For the partnership's taxable year beginning July 1, 1987, each partner's taxable year will result in identical aggregate deferral of income. If the partnership's current taxable year was neither a fiscal year ending June 30 nor the calendar year, the partnership would select either the fiscal year ending June 30 or the calendar year as its taxable year. However, since the partnership's current taxable year ends June 30, it must retain its current taxable year.

Test 12/31	Year End	Interest in Partnership Profits	Months of Deferral for 12/31 Year End	Interest x Deferral
Partner A	12/31	.5	0	0
Partner B	6/30	.5	6	3.0
Aggregate deferral				3.0

Test 6/30	Year End	Interest in Partnership Profits	Months of Deferral for 6/30 Year End	Interest x Deferral
Partner A	12/31	.5	6	3.0
Partner B	6/30	.5	0	0
Aggregate deferral				3.0

Example (4). The facts are the same as in *Example (1)* except that on December 31, 1987, partner A sells a 4 percent interest in the partnership to Partner C, who reports income on the fiscal year ending June 30, and a 40 percent interest in the partnership to Partner D, who also reports income on the fiscal year ending June 30. The taxable year beginning July 1, 1987, is unaffected by the sale. However, for the taxable year beginning July 31, 1988, the partnership must determine the taxable year resulting in the least aggregate deferral as of July 1, 1988. In this case, the partnership will be required to retain its taxable year since the fiscal year ending June 30 continues to be the taxable year that results in the least aggregate deferral of income to the partners.

Example (5). The facts are the same as in *Example (4)* except that Partner D reports income on the fiscal year ending April 30. As in Example (4), the taxable year during which the sale took place is unaffected by the shifts in interests. However, for its taxable year beginning July 1, 1988, the partnership will be required to change its taxable year to the fiscal year ending April 30. This determination is made as follows:

Test 7/31	Year End	Interest in Partnership Profits	Months of Deferral for 7/31 Year End	Interest x Deferral.
Partner A	6/30	.06	11	.66
Partner B	7/31	.5	0	0
Partner C	6/30	.04	11	.44
Partner D	4/30	.4	9	3.60
Aggregate deferral				4.70

Test 6/30	Year End	Interest in Partnership Profits	Months of Deferral for 6/30 Year End	Interest x Deferral.
Partner A	6/30	.06	0	0
Partner B	7/31	.5	1	.5
Partner C	6/30	.04	0	0
Partner D	4/30	.4	10	4.0
Aggregate deferral				4.5

Test 4/30	Year End	Interest in Partnership Profits	Months of Deferral for 4/30 Year End	Interest x Deferral.
Partner A	6/30	.06	2	.12
Partner B	7/31	.5	3	1.50
Partner C	6/30	.04	2	.08
Partner D	4/30	.4	0	0
Aggregate deferral				1.70
§ 1.706-1T(a)(4) Test:				
Current taxable year (June 30)				4.5
Less: Taxable year producing the least aggregate deferral (April 30)				1.7
Additional aggregate deferral (greater than .5)				2.8

Example (6). Partnership P has two partners, A who reports income on the fiscal year ending March 31, and B who reports income on the fiscal year ending July 31. A and B share profits equally. P has determined its taxable year under § 1.706-1T(a)(2) to be the fiscal year ending March 31 as follows:

Test 3/31	Year End	Interest in Partnership Profits	Deferral for 3/31 Year End	Interest x Deferral.
Partner A	3/31	.5	0	0
Partner B	7/31	.5	4	2
Aggregate deferral				2

Test 7/31	Year End	Interest in Partnership Profits	Deferral for 7/31 Year End	Interest x Deferral.
Partner A	3/31	.5	8	4
Partner B	7/31	.5	0	0
Aggregate deferral				4

In May 1988, Partner A sells a 45 percent interest in the partnership to C, who reports income on the fiscal year ending April 30. For the taxable period beginning April 1, 1989, the fiscal year ending April 30 is the taxable year that produces the least aggregate deferral of income to the partners. However, under paragraph (a)(4) of this section the partnership is required to retain its fiscal year ending March 31. This determination is made as follows:

Test 3/31	Year End	Interest in Partnership Profits	Deferral for 3/31 Year End	Interest x Deferral.
Partner A	3/31	.05	0	0
Partner B	7/31	.5	4	2.0
Partner C	4/30	.45	1	.45
Aggregate deferral				2.45

Test 7/31	Year End	Interest in Partnership Profits	Deferral for 7/31 year end	Interest Deferral
Partner A	3/31	.05	8	.40
Partner B	7/31	.5	0	0
Partner C	4/30	.45	9	4.05
Aggregate deferral				4.45

Test 4/30	Year End	Interest in Partnership Profits	Deferral for 4/30 year end	Interest Deferral
Partner A	3/31	.05	11	.55
Partner B	7/31	.5	3	1.50
Partner C	4/30	.45	0	0
Aggregate deferral				2.05
§ 1.706-1T(a)(4) Test:				
Current taxable year (3/31)				2.45
Less: Taxable year producing the least aggregate deferral (4/30)				2.05
Additional aggregate deferral (less than .5)				.40

PART 602—[AMENDED]

OMB Control Numbers Under the Paperwork Reduction Act

Par. 3. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table: "§ 1.706-1T * * * 1545-0099."

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: December 16, 1987.

O. Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 87-29773 Filed 12-24-87; 9:09 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR Parts 0 and 68

[A.G. Order 1245-87]

Organization of the Department of Justice Executive Office for Immigration Review

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: This is to correct the final rule which was published on November 24, 1987, at 52 FR 44971. That rule, among other things, erroneously stated that the Executive Office for

Immigration Review had had its name changed to the Executive Office for Immigration Matters. This rule is published to correct that erroneous statement. The correct name of the organization remains the Executive Office for Immigration Review. The rule also corrects similar erroneous name references in 28 CFR Part 68.

EFFECTIVE DATE: December 29, 1987.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 756-6470.

SUPPLEMENTARY INFORMATION: The final rule published on November 24, 1987, at 52 FR 44971, erroneously stated that the name of the Executive Office for Immigration Review had been changed to the Executive Office for Immigration Matters. This was published in error. This final rule corrects the error and clearly indicates that the correct name of the organization is the Executive Office for Immigration Review. The rule also corrects similar erroneous name references in 28 CFR Part 68.

This is not a major rule within the meaning of section 1(b) of Executive Order 12291. In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant impact on a substantial number of small entities.

List of Subjects

28 CFR Part 0

Government employees, Organizations and functions (Government agencies), Authority delegations (Government agencies).

28 CFR Part 68

Administrative practice and procedures, Aliens, Citizenship and naturalization, Civil rights, Discrimination in employment, Employment, Equal employment opportunity, Immigration, Nationality, Non-Discrimination.

Accordingly, by the authority vested in me, including 28 U.S.C. 509, 510, Title 28 of the Code of Federal Regulations is revised as follows:

PART 0—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621-1645o, 1622 note; 28 U.S.C. 509, 510, 515, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 2001-2017p; Pub. L. No. 91-513, sec. 501; EO 11919; EO 11267; EO 11300.

2. All references to the "Executive Office for Immigration Matters" within Part 0, specifically §§ 0.105, 0.115, 0.116, and 0.117 are hereby revised to read "Executive Office for Immigration Review."

PART 68—[AMENDED]

3. The authority citation for Part 68 continues to read as follows:

Authority: 5 U.S.C. 301, 5 U.S.C. 554; 8 U.S.C. 1103, 8 U.S.C. 1324 a and b.

4. All references to the "Executive Office for Immigration Matters" within Part 68, specifically §§ 68.1, 68.2(d), and 68.34(a), are hereby revised to read "Executive Office for Immigration Review."

Date: December 17, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-29719 Filed 12-28-87; 8:45 am]

BILLING CODE 5131-26-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Employment Discrimination; 706 Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on certified designated 706 agencies. Publication of this amendment effectuates the designation of the Louisville and Jefferson County Human Relations Commission as a certified 706 agency.

EFFECTIVE DATE: December 29, 1987.

FOR FURTHER INFORMATION CONTACT: Valentina Jackson, Equal Employment Opportunity Commission, Office of Program Operations, Systemic Investigations and Individual Compliance Programs, 2401 E Street, NW., Washington, DC 20507, telephone number (202) 634-6806.

SUPPLEMENTARY INFORMATION: The Commission has determined that the Louisville and Jefferson County Human Relations Commission meets the eligibility criteria for certification of designated 706 Agencies as established in 29 CFR 1601.75(b). In accordance with 29 CFR 1601.75(c) the Commission hereby amends the list of certified designated 706 agencies to include: Louisville and Jefferson County Human Relations Commission.

Publication of this amendment to § 1601.80 effectuates the designation of the following agency as a certified 706 agency: Louisville and Jefferson County Human Relations Commission.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal Employment Opportunity, Intergovernmental relations.

1. The authority citation for Part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000e to 2000e-17.

PART 1601—[AMENDED]

§ 1601.80 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.80 by adding the Lousiville and Jefferson County Human Relations Commission in alphabetical order.

Signed at Washington, DC this 23rd day of December, 1987.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 87-29768 Filed 12-28-87; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 102

[DoD Directive 1215.6]

Uniform Reserve, Training and Retirement Categories

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This Part revises 32 CFR Part 102 and establishes new policies and procedures consistent with recent changes in law and development of revised Defense Department policy. There have been significant changes in the roles and missions of the Reserve Components since this was last published. The National Guard and Reserve Forces have expanded and taken on increased responsibilities for National Security as a part of the Total Force. This part outlines new policies and categories for reporting and managing the Reserve Components.

EFFECTIVE DATE: September 22, 1987.

FOR FURTHER INFORMATION CONTACT: Colonel D. Smith, Director Guard/Reserve Manpower Programs, Office of the Secretary of Defense (Reserve

Affairs), Rm 3C325, telephone 695-7306, Pentagon, Washington, D.C. 20301.

SUPPLEMENTARY INFORMATION: 32 CFR Part 102 was last printed in the **Federal Register** on February 12, 1970.

List of Subjects in 32 CFR Part 102

Armed forces reserves, Wages.

Accordingly, 32 CFR Part 102, is revised as follows:

PART 102—UNIFORM RESERVE, TRAINING AND RETIREMENT CATEGORIES

Sec.
102.1 Reissuance and purpose.
102.2 Applicability.
102.3 Definitions.
102.4 RCC and TRC category table.
102.5 Policy.
102.6 Members participating in approved programs outside the Department of Defense.
102.7 Funds.
Appendix A—Uniform Reserve, Training and Retirement Categories.
Appendix B—Table 1, Authorized Reserve, Training and Retirement Categories.
Appendix C—Acronyms.

Authority: Sec. 301, 80 Stat. 379; 5 U.S.C. 301.

§ 102.1 Reissuance and purpose.

This part revises Part 102 to:

(a) Update DoD policy and assign responsibilities for implementing the recent changes in law.

(b) Establish DoD policy guidance for maintaining and reporting personnel data in accordance with DoD Directive 1207.17 [1] and 32 CFR Part 114.

(c) Designate uniform Reserve component categories (RCCs), training or retired categories (TRCs) for the Ready Reserve, Standby Reserve, and Retired Reserve of the Armed Forces under Sections 268, 270, 271, 273, 274, 1376, 2001, and 6017 of Title 10, United States Code.

(d) Establish mininal training criteria for each category of the Reserve components (RCs).

(e) Provide uniform planning policies and procedures on training.

(f) Establish policy guidance for participation in Selective Service System (SSS) activities, civil defense activities, and Continental United States (CONUS) Defense programs by members of the Ready and Standby Reserve.

§ 102.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments and their Reserve components, the Organization of the Joint Chiefs of Staff (OJCS), the U.S. Coast Guard and its Reserve component with the concurrence of the Department of Transportation (DoT), and the Defense Agencies (hereafter referred to collectively as "DoD Components").

§ 102.3 Definitions.

Active Duty (AD). Full-time duty in a U.S. Military Service. A general term applied to all active Military Service, including full-time National Guard duty, without regard to duration or purpose. May be served with either ACs or RCs.

Active Status. All Reserves are in an active status except those on an Inactive Status List of a RC, in the Inactive Army National Guard, or in a retired status in accordance with Section 267(b) of Title 10, U.S.C. Those in an active status may train for points and/or pay and may be considered for promotion.

AD for Special Work (ADSW). ADSW is authorized for personnel from military and Reserve personnel appropriations for projects on AC or RC programs. These include annual screening, training camps operations, training ships operation, and unit conversions to new weapons systems when such duties are essential to the organization. Support for study groups, training sites and exercises, accomplishing short-term projects, and performing administrative or support functions. ADSW tours exceedings 180 days are accountable against AD end strength in accordance with 10 U.S.C. 115(b)(1)(B). By policy, such tours normally are limited to 139 days or less in 1 FY. Exceptions to the 139-day limit may be granted on an individual basis for specific mission requirements. Nontechnician personnel shall receive priority consideration for such tours.

AD for Training (ADT). An ADT tour under orders providing for automatic reversion to inactive duty status when the specified period of ADT is completed. ADT includes full-time attendance at formal specialized skill training, flight training, combat crew training, and professional development education programs intended to provide RC members with necessary skills and disciplines supporting RC missions. Special AD for activities having a primary training content also is authorized as ADT.

Annual Screening. At least 1 day of ADT is required each year for IRR members to accomplish the annual screening requirements of Section 271 of Title 10, U.S.C. The Services are required to maintain the current status of each member's physical condition, dependency status, military qualifications, civilian occupational skills, availability for service, and other information prescribed by Section 271 of Title 10, U.S.C. and the Service Secretary.

Annual Training (AT). The minimal period of AT or annual field training that a Reserve member must perform each year to satisfy the AT requirements associated with his and or her RC assignment. AT normally is performed during one consecutive period. Selected units or IMAs may perform this training in increments of 3 or more days if training requirements and any additional costs (including travel costs) are justified.

Inactive Duty Training (IDT). Authorized and scheduled training performed by a Reservist not on AD, AT, or ADT and consisting of regular training periods, assemblies or drills, periods of applicable duty or equivalent training, additional special duties authorized for Reservists by an authority designated by the Secretary concerned and performed by Reservists with the prescribed organization where they are assigned. Includes similar duties performed by Reservists in their status as National Guard members.

Inactive Status. Those Reserve members, on an inactive status list of a RC in accordance with 10 U.S.C. 273, or assigned to the Inactive Army National Guard. Those in an inactive status may not train for points or pay and may not be considered for promotion.

Individual Mobilization Augmentees (IMAs). IMAs are drilling individual Reservists that are trained and preassigned to an AC organization, a SSS, or a FEMA billet that must be filled on or shortly after mobilization. IMAs participate in training activities on a part-time basis with these organizations preparing for recall or mobilization. The IDT amount required is determined by component policy and may vary from 0 to 48 drills a year.

IMA Detachments. An administrative unit for managing and training IMA.

Initial ADT (IADT). IADT includes basic military training and technical skill training required for all accessions. For nonprior service male enlistees who are between the ages of 18½ and 26, this IADT shall be for a period of not less than 12 weeks to commence insofar as practical within 270 days after the date of enlistment. For all other enlistees and inductees, IADT shall be for a period prescribed by the Secretary concerned to commence insofar as practical within 360 days after entry into service, except that in time of war or national emergency declared by Congress or the President the period of basic training (or

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1052, Philadelphia, PA 19120.

its equivalent) shall be for a period of not less than 12 weeks.

A member of the RC may not be assigned to active duty on land outside the United States, its territories and possessions until the member has completed basic training.

Key Employee. Any member identified by his and/or her public or private employer occupying a key position as defined in 32 CFR Part 44.

Key Position. A civilian (public or private sector) position that may not be vacated during war or national emergency as designated by the Agency Head and approved by the Secretary concerned in accordance with 32 CFR Part 44.

Multiple IDT Periods (MIDTPs). Consists of two scheduled periods of IDT performed in 1-calendar day, each at least 4 hours in duration. No more than two IDT periods may be performed in 1 day.

Nondeployable Account. Separate accounts in each unit and centrally for individuals not in units that collect Reservists assigned to RCCs and TRCs UF, UQ, UP, and UX for both officer and enlisted personnel who have not completed basic IADT of 12 weeks or its equivalent. These personnel are not considered as trained strength assigned to units or mobilization positions and therefore are not deployable overseas on land with those units or to those mobilization positions. Synonymous with Training Pipeline.

Nonprior Service Personnel. An individual receiving a commission in or enlists directly into a U.S. Armed Force and has not completed basic IADT.

Qualifying Years Creditable for Retirement Pay. In order for a Guardsman or Reservist to be eligible for retired pay at age 60, the individual must have at least 20 years of service in which the individual receives at least 50 retirement points in a year. The last 8 years of qualifying years of service must have been served in a RC.

Reserve Component (RC) Category (RCC). The category identifying the status of individual in a specific RCC within each RC Identified by a RCC designator.

RCs of the Armed Forces. As defined in 10 U.S.C. 261(a), the RCs include the U.S. Army National Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the U.S. Air National Guard, the Air Force Reserve, and the Coast Guard Reserve.

Secretary of Military Department (Secretary Concerned). The Secretaries of the Army, Navy, Air Force, and (for purposes of this part) the Commandant of the Coast Guard when the Service is operating as a DOT Agency.

Selected Reserve Strength. The total number of Guardsmen and Reservists who are members of the Selected Reserve subject to the Presidential recall authority of 200,000 persons and for mobilization under declarations of war or national emergency. Includes paid and nonpaid members. All Selected Reservists are in an active status.

Trained Strength in Units. Those personnel assigned to units who have completed basic IADT of 12 weeks or its equivalent and are eligible for deployment overseas on land, when mobilized under proper authorities. Excludes personnel in nondeployable accounts.

Training and Retired Category (TRC). The category identifying the status of individuals in a specific TRC within each RCC and RC. Identified by a TRC designator.

Training Period. An authorized and scheduled regular IDT period of a prescribed time, not less than 2 hours for retirement point credit, and not less than 4 hours for pay. Previously used interchangeably with other common terms such as drills, drill periods, assemblies, periods of instruction, etc.

Training Pipeline. RCC designation for those untrained officers and enlisted personnel who have not completed IADT of 12 weeks or its equivalent. Synonymous with nondeployable account.

Training Unit. A unit established to provide military training to individual Reservists or to RC units.

Unit. When used alone, the term denotes a unit of the Selected Reserve that is organized, equipped, and trained to be mobilized and to serve on AD as a unit or that augments or is augmented by another unit. Headquarters and support functions without wartime missions are not considered units under this Directive.

Voluntary Training. Training in a nonpay status for IRR members and active status Standby Reservists. Participating in voluntary training is for retirement points only and may be achieved by training with drilling units of the Selected Reserve, voluntary training units, or reinforcement training units; by ADT without pay; by completing of authorized military correspondence courses; by attendance at designated courses of instruction; by participating in designated special military events; or by participating in authorized civil defense activities. Retirees also may train voluntarily without pay or other credit with organizations to which they shall be assigned upon recall to AD, or with other organizations with which applicable arrangements have be made. Opportunity to participate voluntarily shall be limited to that training made available within the manpower and resources authorized by the Secretary concerned.

Voluntary Training Unit or Reinforcement Training Unit. A unit formed by volunteers to provide RC training in a nonpay status for IRRs and active status Standby Reservists attached under competent orders and participating in such units for retirement points.

§ 102.4 RCC and TRC category table.

Table 1 (see Appendix B of this part) establishes authorized RCCs and TRCs in the RCs for training and accountability purposes. Each unit and member of the Ready Reserve, Standby Reserve, and Retired Reserve not counted in active duty (AD) end strengths, in accordance with 10 U.S.C. 115(b)(1)(B), shall be placed in one of the RCCs and TRCs so identified.

§ 102.5 Policy.

(a) *Establishment of Criteria.* To ensure that trained and qualified RC units and individuals are available for AD in time of war or national emergency and that funds appropriated annually for RC training are adequate for meeting mobilization requirements, the Secretary concerned shall establish necessary criteria and procedures to do the following:

(1) Place all RC members in a RCC and TRC in accordance with this part. Individuals shall be assigned to RCCs and TRCs based on their mobilization obligations and training requirements.

(2) Ensure that all RC members receive training in accordance with mobilization assignments and required readiness levels. All members of the Ready Reserve, except members of the U.S. Army National Guard and the U.S. Air National Guard, may be required to serve on AD training (ADT) up to 30 days a year (10 U.S.C. 270(a)(2)). Training for the Individual Ready Reserve (IRR), Standby Reserve, and Retired Reserve may be accomplished voluntarily in accordance with DoD procedures in this part.

(3) Approve any additional inactive duty training (IDT) as necessary and consistent with law. Authorizing and utilizing additional training is subject to the categories, limitations, and controls in § 102.5(c).

(4) Authorize ADT and AD for special work (ADSW) subject to the categories, limitations, and controls in § 102.5(d).

(b) *Considerations for Establishing Criteria.* (1) Training programs shall provide for the minimal number of IDT

periods, annual training (AT), and ADT required for attaining the prescribed unit readiness status and maintaining individual proficiency.

(2) Paid IDT periods shall not be less than 4 hours. No more than two IDT periods may be performed in any calendar day.

(3) IDT periods for points only (without pay) shall not be less than 2 hours duration with a maximum of two points authorized in any 1-calendar day (one point in any 1-calendar day for attendance at professional or trade conventions) (DoD Instruction 1215.7 [2]).

(4) Where practical, multiple IDT periods (MIDTPs) shall be used for maximizing the effectiveness of training.

(c) *Additional IDT Periods.* Additional IDT periods are intended to improve readiness by providing for individuals and units to receive required and necessary training for attaining and maintaining designated readiness levels. The Secretary concerned shall establish guidance for and approve use of additional IDT periods in accordance with limits outlined in the following:

(1) These training periods are intended for the principal use of nontechnician drilling Reservists. The RC shall identify additional IDT periods separately from normal unit or individual training periods in budget documents and in internal records so that training period costs and training support costs for each type of additional training clearly may be identified, justified, and audited. Those additional IDT periods used by technicians shall be identified separately in budget documents to monitor compliance with this policy. IDT for all Guard and Reserve personnel shall be in accordance with 37 U.S.C. 206.

(2) Three categories of additional IDT periods are as follows:

(i) Additional training periods (ATPs) for units, subunits, and individuals are for accomplishing additional required training as defined by a unit's wartime mission. The number of these training periods shall not exceed 12 per fiscal year (FY) for any member.

(ii) Additional flying and flight training periods (AFTPs) are authorized for primary aircrew members for conducting aircrew training and combat crew qualification training to attain and maintain aircrew flying proficiency and sustain mobilization readiness. AFTPs shall not be in addition to the ATPs in § 102.5(c)(2)(i). The number of these training periods shall not exceed 48 per fiscal year (FY) for any aircrew member unless specifically authorized by the Secretary concerned.

(iii) Readiness Management Periods (RMPs) are used to support the ongoing day-to-day operation of the unit, accomplishing unit administration, training preparation, support activities, and maintenance functions. The number of periods shall not exceed 24 per fiscal year (FY) for any member. These training periods shall be used only where sufficient full-time support personnel are not available to accomplish these duties. RMPs shall not be performed on the same day another training period (IDT, ATP, or AFTP) is being performed and not more than one RMP shall be performed by an indivdual in 1-calendar day.

(d) *Active Duty.* At any time, an authority designated by the Secretary concerned may order a member of the Reserve component under his or her jurisdiction to AD or retain or her on AD with the consent of the member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the state or territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned (10 U.S.C. 672(d)). Five categories of AD or RC members serving with RC are as follows:

(1) Initial active duty training (IADT), which includes basic military training and technical skill training, is required for all accessions. For nonprior service (NPS) male enlistees who are between the ages of 18½ and 26, this IADT shall be for a period of not less than 12 weeks to commence insofar as practical within 270 days after the date of enlistment. For all other enlistees and inductees, IADT shall be for a period prescribed by the Secretary concerned to commence insofar as practical within 360 days after entry into service, except that in time of war or national emergency declared by Congress or the President the period of basic training (or its equivalent) shall be for a period of not less than 12 weeks. (10 U.S.C. 511(b), 511(d), 671(b)).

(2) AT is required for all members of the Ready Reserve. By DoD policy, this requirement is limited to members of the Selected Reserve. For members of the Reserves, this training shall be for not less than 14 days (exclusive of travel time) each year (10 U.S.C. 270(a)(1)). Units of the National Guard are required to perform full-time military training for at least 15 days per year including travel time (32 U.S.C. 502).

(3) ADT is authorized to provide for full-time attendance at organized and planned specialized skill training, flight training, combat crew training, unit conversion training, refresher and proficiency training, officer acquisition training, professional development education programs, etc. for providing RC members with necessary skills and disciplines supporting RC missions. Authorized ADT must provide a primary training content to recipient. Authorization for ADT shall be managed in accordance with Directives established by the Secretaries concerned. Nontechnician personnel shall receive priority consideration for such training.

(4) ADSW is authorized for personnel from applicable military or Reserve personnel appropriations for projects supporting active or RC programs, such as annual screening, operation of training camps, training ships, and unit conversions to new weapons systems, when such duties are essential to the organization. Projects supporting study groups, training site and exercises, short-term mission projects, and administrative support functions also are included. Authorization for ADSW shall be managed in accordance with Directives established by the Secretary concerned. ADSW tours exceeding 180 days are accountable against AD strengths (regular or RC AD end strengths, consistent with pay appropriations) in accordance with Section 115(b)(1)(B) of Title 10, U.S.C. By DoD policy, these tours normally are limited to 139 days or less in 1 FY. Exceptions to the 139-day limit may be granted on an individual basis for specific mission requirements. Nontechnician personnel shall receive priority consideration for these tours. Short breaks in tours, i.e., 30 days or less, to circumvent this requirement are not authorized.

(5) AD, other than for training or ADSW, including full-time National Guard duty, is authorized in support of RC missions, under Sections 265, 672(d), 678, 715, 3019, 3033, 3496, 8019, 8033, and 8496 of Title 10, U.S.C. and Section 708 of Title 32, U.S.C. These members are included in the full-time support numbers for each RC under the collective title of Active Guard or Reserve (AGR), including Navy training and administration of Reserves (TARs) and all statutory tour personnel.

(e) *Restriction on Assignment Outside United States.* A member of the RCs may not be assigned to active duty on land outside the United States, its territories and possessions until the member has completed basic training (10 U.S.C. 671(a)).

[2] See footnote 1 to § 102.1(b).

(f) *Training Participation.* The Secretaries concerned shall establish minimal standards for satisfactory participation at required training periods, which shall include the number and percentages of training periods for meeting the minimal standards. Individuals attending IDT periods are required to meet these minimal training standards. These standards shall contain procedures for accounting for absences and excused drills, as necessary. Individuals voluntarily may attend extra IDT periods for points only in accordance with 32 CFR Part 100.

(1) *Selected Reserve.* (i) IDT. Except as specifically provided in regulations by the Secretary of Defense or the Secretary of Transportation for the Coast Guard, members of the Ready Reserve shall participate in at least 48 scheduled training periods each year. (See Section 270(a)(1) of Title 10, U.S.C. and 32 U.S.C. 502).

(ii) AT. Except as specifically provided for in regulations by the Secretary of Defense or the Secretary of Transportation for the Coast Guard, AT is required for all members of the Ready Reserve. By DoD policy, this requirement is limited to members of the Selected Reserve. For members of the Reserves, this training shall be for not less than 14 days (exclusive of travel time) each year. Units of the National Guard are required to perform full-time military training for at least 15 days per year including travel time.

(iii) AT tours for individual mobilization augmentees (IMAs) or other Reservists individually assigned to all training categories ordered to AT at headquarters, support organizations, or to activities not operating on Saturday, Sunday, or Federal holidays, normally are limited by DoD policy to a maximum of 12 days excluding travel time; i.e., from Monday of the first week through Friday of the second week.

(A) When valuable training opportunities are available and required on weekends or for longer periods than 12 days, members may be ordered to AT for up to 19 days excluding travel time for activities such as participating in mobilization exercises. Training may begin on days other than Monday when special activities begin during the week.

(B) AT normally is performed during one consecutive period. Split tours may be authorized for selected units or individuals if required to meet training missions. Any additional costs must be justified fully. Authorization for variations in AT lengths shall be managed in accordance with Directives established by the Secretaries concerned.

(iv) Short periods of AD performed by members of the Selected Reserve, under Sections 672(d), 673, 673b, 3500, or 8500 of Title 10, U.S.C. may not be substituted for training required by 10 U.S.C. 270 and by this part, unless in the judgment of the Secretary concerned:

(A) AD service performed under these sections is equivalent to the training that might have been performed under the authority of Section 270 of Title 10, U.S.C. and this part.

(B) AD service under these sections when combined with training required by Section 270 of Title 10, U.S.C. and this part constitutes an undue personal hardship.

(v) NPS Personnel:

(A) Those personnel commissioned or enlisted directly into a U.S. Armed Force who have not completed basic training (IADT) of 12 weeks or its equivalent.

(B) The Secretaries concerned may require personnel commissioned or enlisted for service in the Selected Reserve to participate in IDT periods before completing IADT. These training periods may be with or without pay.

(C) IADT, which includes basic military training and technical skill training, is required for all accessions. For NPS male inlistees who are between the ages of 18½ and 26, this initial active duty training shall be for a period of not less than 12 weeks to commence insofar as practical within 270 days after the date of enlistment. For all other enlistees and inductees, initial AD training shall be for a period prescribed by the Secretary concerned to commence insofar as practical within 360 days after entry into service, except that in time of war or national emergency declared by Congress or the President the period of basic training (or its equivalent) shall be for a period of not less than 12 weeks. (See Sections 511(b), 511(d), and 671(b) of Title 10, U.S.C.)

(D) Individual Reservists are exempt from participating in AT or ADT during the last 120 days before completing their Military Service Obligation (MSO) if they have served on AD for 1 year or longer. (See Section 270(a) of Title 10, U.S.C.).

(2) *IRR.* (i) Members of the IRR, not scheduled for mandatory or voluntary training, are required to serve at least 1 day on AD each year to accomplish annual screening requirements in accordance with Sections 271(a), 275(a), 652, and 1004 of Title 10, U.S.C. The Services are required to maintain the current status of each member's physical condition, dependency status, military qualifications, civilian occupational skills, availability for service, and other information as prescribed. Annual screening by the Services shall include determining skill proficiency degradation and, if necessary, identifying applicable refresher training needs by skill.

(ii) IRR members, including individuals enlisting directly into the IRR, may participate voluntarily in IDT for points only in accordance with component regulations.

(3) *Standby Reserve.* The Standby Reserve consists of personnel who maintain their military affiliation without being in the Ready Reserve in accordance with 10 U.S.C. 267, 272 and 273 and DoD Directive 1235.9 [3].

(i) *Active Status List.* The following members of the Standby Reserve are in an active status. They may participate voluntarily without pay in RC training for retirement points only and may be considered for promotion.

(A) Personnel not having fulfilled their statutory MSO.

(B) Personnel temporarily assigned for hardship or other cogent reason who intend returning to the Ready Reserve.

(C) Personnel retained in an active RC status under Section 1006 of Title 10, U.S.C.

(D) Members of Congress and any Service members transferred from the Ready Reserve to the Standby Reserve after being designated as key personnel by their employers may volunteer for assignment to the Standby Reserve Active Status List for the period they remain designated as key personnel. Individuals desiring to be transferred shall apply directly to the RC concerned.

(ii) *Inactive Status List.* The following members of the Standby Reserve are in an inactive status. They may not participate for points, pay, or be considered for promotion:

(A) Members transferred to the Inactive Status List instead of separating in accordance with Section 1209 of Title 10, U.S.C.

(B) All other members transferred to the Inactive Status List in accordance with DoD Directive 1235.9. Personnel enrolled in a military school course, including correspondence courses, when transferred from the Ready Reserve to the Standby Reserve Inactive Status List may continue voluntarily participating in the course until completion. These personnel shall not be entitled to pay and allowances, travel and transportation, or to earn promotion and retirement points for this training.

(4) *Retired Reserve.* Consists of all personnel transferred to the Retired Reserve and subject to mobilization in accordance with 32 CFR Part 64. Retired

[3] See footnote 1 to § 102.1(b).

Reservists voluntarily may train (without pay) with a unit where they have premobilization orders. Suitable arrangements with the unit are required. The Retired Reserve consists of the following categories:

(i) Reserve members having completed 20 qualifying years creditable for retirement pay, are 60 years or more of age, and have applied for retired pay.

(ii) Reserve members having completed 20 qualifying years creditable for retirement pay, are not yet 60 years of age, or are age 60 and have not applied for retirement pay.

(iii) Reserve members retired for physical disability under 10 U.S.C. 1201, 1202, 1204, or 1205. Members have completed 20 years of active service creditable for retirement pay or are more than 30 percent disabled.

(iv) Reserve members having completed 20 or more years of AD service and retired under Sections 3911, 3914, 6323, 6330, 8911, or 8914 of Title 10, U.S.C. This includes regular enlisted personnel of the Army, Navy, Marine Corps, and Air Force with 20 to 30 years of Military Service who become Reserve members on retirement. Navy and Marine Corps retirees are transferred to the Fleet Reserve (Navy) and Fleet Marine Corps Reserve, respectively.

(v) Reserve personnel drawing retirement pay based on retirement for reasons other than age, Service requirements, or physical disability. This category is restricted to those who are retired under special conditions as authorized by the Assistant Secretary of Defense (Reserve Affairs) (ASD(RA)) pursuant to legislation.

(vi) Personnel not eligible for retirement pay, but having requested placement on the Honorary Retired List under Section 274 of Title 10, U.S.C. and under 32 CFR Part 115.

(5) *Voluntary Training.* Members of the RCs, not subject to mandatory training, shall be encouraged to participate in order to maintain their mobilization readiness. Opportunity to participate voluntarily without pay in training shall be limited by the manpower and resources authorized by the Secretary.

§ 102.6 Members participating in approved programs outside the Department of Defense.

(a) *Selective Service System.* The SSS administers the Military Selective Service Act (MSSA) in accordance with 50 U.S.C., App. 451 et seq. The MSSA authorizes the Director of Selective Service, by delegation from the President, "* * * to order to active duty with their consent and to assign to the Selective Service System such officers of the selective-service section of the State headquarters and headquarters detachments and such other officers of the federally recognized National Guard of the United States or other armed forces personnel (including personnel of the reserve components thereof), as may be necessary for the administration of the national and of the several State headquarters of the Selective Service System."

(1) *Active Duty.* Requests for assignment to SSS in an AD status must be approved in accordance with DoD Directive 1000.17 [4]. Costs for these members shall be reimbursed to the Department of Defense. Members shall not be assigned to a RCC or TRC, shall not be counted against RC strengths, and shall not be included in the RCCPDS files.

(2) *Inactive Duty.* The Department of Defense and the Office of the Director of Selective Service shall agree annually on the number of RC members assigned as IMAs to the SSS. The SSS shall reimburse the Department of Defense for IDT and AT for these members.

(b) *Civil Defense Activities and CONUS Defense Programs.* (1) The U.S. civil defense and CONUS defense programs are an integral part of U.S. national security. Support of civil defense may be provided through RC members participating with Federal, State, and local civil agencies only when clearly furthering specifically identifiable DoD interests. Participating shall be in an IDT or ADT status and on a reimbursable basis, except when the primary basis for participating is to meet a DoD program requirement. Subject to priorities and guidance in 32 CFR Part 185, military support of these activities is a proper mission for DoD Components. Military planning and liaison may be provided by RC members at selected civil government and military headquarters and includes such tasks and responsibilities as mutual support to civil authorities for civil defense, CONUS defense, physical security of key assets, and disaster relief operations.

(2) Programs involving RC members in civil defense activities directly supporting the Federal Emergency Management Agency (FEMA) or State and local government under a FEMA program must be approved jointly by FEMA and the Department of Defense. Assigning members in an AD (other than for training) status supporting of civil defense outside the Department of Defense must be approved in accordance with DoD Directive 1000.17. The following programs are approved for such participation.

(i) *Federal Liaison Officers.* These are Reserve officers serving as IMAs performing planning and liaison responsibilities between DoD Components and Federal regional headquarters, including interface with the civil sector as directed by their DoD Component through the Military Service planning agent. Federal liaison officers function primarily in support of DoD missions. All costs are paid by the DoD Component. Each Military Department is authorized to assign one or more Federal liaison officers (other than flag or general officer rank) at each FEMA Region and at FEMA National Headquarters.

(ii) *State Liaison Officers.* These are Reserve officers serving as IMAs performing planning and liaison responsibilities between their DoD Components and State or U.S. Territory Civil Defense or Emergency Service headquarters for interfacing with the civil sector as directed by their DoD Component through the Military Service planning agent. State liaison officers function primarily in support of DoD missions. All costs are paid by the DoD Component. Each Military Department is authorized to assign one or more State liaison officers (other than flag or general officer rank) at each State or U.S. territorial headquarters and shall assign or attach such officers to functions supervised by the State Area Command (STARC).

(iii) *Regional Military Emergency Coordinators (RMECs).* These are Reserve officers serving as IMAs and performing resource claimancy tasks for their DoD Components while participating in resource management of emergency preparedness and crisis operations under DoD Directive 5030.45 [5]. RMEC officers function primarily in support of DoD missions. All costs are paid by the DoD Component. Each Military Department is authorized to assign one or more officers (other than flag or general officer rank) to the DoD RMEC team.

(iv) *Civil Preparedness Support Detachments (CPSD).* These are Selected Reserve units of the U.S. Army Reserve (USAR) whose missions are to augment the communications and security capabilities of FEMA emergency operations centers.

(v) *FEMA IMAs.* These are IMAs assigned to responsibilities supporting civil defense planning at FEMA headquarters and regions, and at State and local civil defense activities. These

[4] See footnote 1 to § 102.1(b).

[5] See footnote 1 to § 102.1(b).

IMAs perform 2 weeks of annual ADT and FEMA reimburses the Department of Defense for these training costs.

(3) Members of the IRR and Standby Reserve Active Status List voluntarily participating in approved Civil Defense activities may receive retirement points in accordance with DoD Instruction 1215.7.

(4) IRR members participating in civil defense activities may request ADT to attend civil defense courses. If so ordered, these Reservists shall be entitled to pay and allowances including travel allowances for such training.

§ 102.7 Funds.

(a) Funds for personnel in the Uniform Reserve, Training and Retirement categories in the RCs, as identified in this part, shall be in accordance with DoD 7110.1-M.

(b) The Secretary concerned is authorized to include in the budget for the active component (AC), funds providing AD tours for Reseves on temporary duty in support of AC and RC programs.

Appendix A—Uniform Reserve, Training and Retirement Categories

There are three RCCs. They are the Ready Reserve, the Standby Reserve, and the Retired Reserve. Each member of the National Guard and Reserve is assigned within one of these categories. (All National Guard members, including those in the Inactive National Guard (ING), are in the Ready Reserve.)

A. *Ready Reserve Categories.* The Ready Reserve is comprised of military members of the Reserve and National Guard, organized in units or as individuals, and are liable for recall to AD for augmenting the AC in time of war or national emergency under 10 U.S.C. 672 and 673. The Ready Reserve consists of three RC subcategories: the Selected Reserve, the IRR, and the ING.

1. *Selected Reserve Categories.* The Selected Reserve consists of those units and individuals in the Ready Reserve designated by their respective Services and approved by the Joint Chiefs of Staff (JCS) as so essential to initial wartime missions that they have priority over all other Reserves. All Selected Reservists are in an active status. The Selected Reserve consists of the following Reserve categories:

a. *Selected Reserve Units.* Units manned and equipped to serve and/or train either as operational or as augmentation units. Operational units train and serve as units. Augmentation units train together, but when mobilized, lose their unit identity and become part of an AC unit or activity. Selected Reserve units include the following training categories:

(1) *Drilling Unit Reservists.* Trained unit members participating in unit training activities on a part-time basis. (RCC and TRC SA.)

(2) *Unit Full-Time Support Personnel.*

(a) *Active Guard Reserve (AGR).* Guard or Reserve members of the Selected Reserve ordered to AD or full-time National Guard duty with their consent for organizing, administering, recruiting, instructing, or training RC units. All unit AGR members must be assigned against or attached to an authorized mobilization position in the unit they support. (RCC and TRC SG.)

(b) *Military Technicians (MT).* Federal civilian employees providing full-time support for administration, training, and maintenance in a Selected Reserve unit. These employees must maintain their status as drilling Reservists in the same unit, are often referred to as dual status individuals, and are counted in the drilling Reservist subcategory. Dual status means they are both civilian employees and drilling Reservists of a Guard or Reserve unit. All dual status MTs must be in mobilizable positions. (RCC and TRC SM.)

(c) *Active Component (AC).* AD members paid from regular component appropriations assigned or attached to units by their respective Services to provide advice, liaison, management, administration, training, and/or maintenance support in the category of full-time support. These personnel are not part of the Selected Reserve, but shall deploy with their assigned unit when mobilizing. ACs are counted as part of trained strength in units, but not in the Selected Reserve strengths.

(d) *Civil Service Employees (CIV).* These personnel are hired under 5 U.S.C. 3101 and 32 U.S.C. 709 to provide administrative support to the RCs. They are in the category of full-time support to the RCs, but are not part of the Selected Reserve. CIVs do not have mobilization assignments and they are not in the Selected Reserve strengths.

(3) *Individuals in a Simultaneous Membership Program.* Senior Reserve Officer Training Corps (ROTC) Cadets and Marine Corps Platoon Leader Class students who are also permitted to be members of a Selected Reserve unit. (RCC and TRC ST).

b. *Trained Individuals.* Individual members of the Selected Reserve assigned to an AC organization. Trained individuals include the following training categories:

(1) *IMAs.* Trained individuals preassigned to an AC, SSS, or a FEMA organization's billet that must be filled on or shortly after mobilization. IMAs participate in training activities on a part-time basis with an AC unit preparing for recall in a mobilization. The amount of training required is determined by RC policy and may vary from 0 to 48 training periods a year. All IMAs must perform a minimal 2 weeks of AT each year. (RCC and TRC TB.)

(2) *Individual AGR.* Individual Active Guard Reserve members of the Selected Reserve ordered to AD or full-time National Guard duty in an AC organization with their consent for organizing, administering, recruiting, instructing, or training the RCs. They are assigned in headquarters and support functions (i.e., Army personnel at Major U.S. Army Reserve Command (MUSARC) and/or State level and above.) (RCC and TRC TR.)

(3) *Individual MTs.* Military Technicians, who are Federal civilian employees providing full-time support for administration, training, and maintenance in the Selected Reserve, not in a unit. These employees must maintain their status as drilling Reservists. All individual MTs must be in mobilizable positions. (RCC and TRC TW.)

c. *Training Pipeline.* Selected Reserve officer and enlisted personnel who have not yet completed IADT. In accordance with 10 U.S.C. 671, all Ready Reservists shall receive training commensurate with their intended wartime assignments, and must complete a minimum of 12 weeks or the equivalent of IADT before any deployment on land outside the United States. The training pipeline is synonymous with the term non-deployable account. Since these personnel in the training pipeline may be mobilized, but may not be available for deployment with their units, they are accounted for separately in the following training categories:

(1) *Personnel currently on IADT.* Includes the second part of split IADT. (RCC and TRC UF.)

(2) *Personnel Awaiting Second Part of Split IADT.* (RCC and TRC UQ.)

(3) *Personnel Awaiting IADT.* Includes personnel in the Selected Reserve serving with or without pay. NPS males between the ages of 18½ and 26 years enlisting under Section 511(d) of Title 10, U.S.C. shall enter IADT insofar as practicable within 270 days after the date of that enlistment. All other members shall perform IADT insofar as practicable within 360 days of that enlistment. (RCC and TRC UP.)

(4) *Other Selected Reserve Untrained Personnel in Training Programs.* Includes chaplains, medical, and early

commissioning programs. (RCC and TRC UX.)

2. *IRR Categories.* The IRR (together with the ING) consists of those Ready Reservists not in the Selected Reserve. IRR consists of the following Reserve categories:

a. IRR is a manpower pool principally with individuals having had training, having served previously in the AC or in the Selected Reserve, and having some period of their MSO remaining. There are some voluntary individuals in the IRR for hardship or special nonpay programs providing a variety of professional assignments and opportunities for earning retirement points and military benefits. These personnel all have an obligation to complete either MSO or another contractual commitment. Members voluntarily may participate in training for retirement points and promotion with or without pay. Required training (involuntary) may not exceed 30 days a year under 10 U.S.C. 270(a)(2). (RCC and TRC RE for those trained. TRC RH for those requiring further training or with unknown training status. See Appendix B)

b. Test programs were conducted in FY 1979 and FY 1983 for enlisting nonprior service personnel directly into the IRR. These personnel were required to receive IADT and are required to receive periodic refresher training. (RCC and TRC RE for those trained, or RCC and TRC RH for those requiring further training, or those with unknown training status.)

c. The IRR also includes some personnel participating in officer training programs or in the Armed Forces Health Scholarship program. Members in this scholarship program are required to perform 45 days of AD for training a year in accordance with Section 2121(c) of Title 10, U.S.C. (RCC and TRC PJ for officers not in the Selected Reserve participating in officer training programs or RCC and TRC PK for officers not in the Selected Reserve participating in Armed Forces Health Scholarship Programs).

3. *ING Category.* The ING consists of National Guard personnel in an inactive status in the Ready Reserve, not in the Selected Reserve, attached to a specific National Guard unit. For these personnel to remain ING members, they must muster once a year with their assigned unit, but they do not participate in training activities. On mobilization, ING members mobilize with their units. Similar to the IRR, some ING members have legal and contractual obligations. ING members may not train for points or pay and are not eligible for promotion. Currently, the ING category is used only by the Army National Guard. (RCC and TRC II.)

B. *Standby Reserve Categories.* The Standby Reserve consists of personnel maintaining their military affiliation without being in the Ready Reserve, having been designated key civilian employees, or who have a temporary hardship or disability. These individuals are not required to perform training and are not part of units. The Standby Reserve is a pool of trained individuals who may be mobilized as needed to fill manpower needs in specific skills. The Standby Reserve consists of the following training categories:

1. *Active Status List.* The following members of the Standby Reserve in an active status may participate voluntarily without pay in RC training for retirement points only and may be considered for promotion:

a. Members of Congress and any members transferred from the Ready Reserve to the Standby Reserve, as a result of being designated as key personnel by their employers, may volunteer for assignment of the Standby Reserve Active Status List for the period they remain designated as key personnel. Individuals desiring to be transferred shall apply directly to the component concerned. (RCC and TRC YC.)

b. Personnel not having fulfilled their statutory MSO, or temporarily assigned for hardship reason intending to return to the Ready Reserve, or retained by an RC in an active status under 10 U.S.C. 1006 (RCC and TRC YD.)

2. *Inactive Status List.* The following members of the Standby Reserve are in an inactive status. They may not participate for points or pay and may not be considered for promotion:

a. Members transferred to the Inactive Status List instead of separating under Section 1209 of Title 10, U.S.C. (RCC TRC YL.)

b. All other members transferred to the Inactive Status List in accordance with DoD Directive 1235.9 (RCC TRC YN.)

C. *Retired Reserve Categories.* 1. Consists of all personnel transferred to the Retired Reserve. Retired Reservists voluntarily may train with a unit where they have premobilization orders. Suitable arrangements with the unit are required. The Retired Reserve consists of the following retired categories.

a. Reserve members having completed 20 qualifying years creditable for retirement pay, are 60 years or more of age, and have applied for retirement pay. These members shall be assigned to RCC and TRC V1.

b. Reserve members having completed 20 qualifying years creditable for retirement pay, are not yet 60 years of age, or are age 60 and have not applied for retirement pay. These members shall be assigned to RCC and TRC V2.

c. Reserve members retired for physical disability under Sections 1201, 1202, 1204, or 1205 of Title 10, U.S.C. Members have completed 20 years of active service creditable for retirement pay or are more than 30 percent disabled. These members shall be assigned to RCC and TRC V3.

d. Reserve members having completed 20 or more years of AD service and retired under Sections 3911, 3914, 6323, 6330, 8911, or 8914 of Title 10, U.S.C. This includes regular enlisted personnel of the Army, Navy, Marine Corps and Air Force with 20 to 30 years of Military Service who become Reserve members on retirement. Navy and Marine Corps retirees are transferred to the Fleet Reserve and Fleet Marine Corps Reserve, respectively. These personnel shall be assigned to RCC and TRC V4.

e. Reserve personnel drawing retired pay under other than age, Service requirements, or physical disability. This category is restricted for retirement under special conditions as authorized by the Office of the Assistant Secretary of Defense (Reserve Affairs) (OASD(RA)) pursuant to legislation. These personnel shall be assigned to RCC and TRC V5.

f. Personnel not eligible for retirement pay, but having requested placement on the Honorary Retired List under section 274 of Title 10, U.S.C. and 32 CFR part 115. These personnel shall be assigned to RCC and TRC V6.

2. Enlisted Navy and Marine Corps Reserve and regular members retired with 20 or more years of AD, but less than 30 years, are assigned to the Fleet Reserve (Navy) and Fleet Marine Corps Reserve, respectively. When these personnel complete a total of 30 years of Active and Fleet Reserve (retired) service, the Reserve members are then assigned to the Retired Reserve and regular members are assigned to the Regular Retired List. Army and Air Force regular and Reserve enlisted personnel retiring after completing 20 or more years, but less than 30 years of AD, are members of the Reserve and are included in the Retired Reserve. When these members complete a total of 30 years of active and retired service, the regular enlisted retirees are placed on the regular retired list.

3. All retired members having completed at least 20 years AD (Regular or Reserve), regardless of the retired list where assigned, may be ordered to AD when required by the Secretary of the

Military Department in accordance with Section 688 of Title 10, U.S.C.

4. Retired Reserve members may be ordered to AD in their status as Retired Reserve members. It is not necessary to place the member in the Ready Reserve for this purpose.

5. Discharged retired members are former members having completed 20 satisfactory years creditable for retirement, but electing to be discharged from the RCs. Since these personnel have been discharged, they are not a part of the Retired Reserve.

BILLING CODE 3810-01-M

Appendix B-Table 1,

AUTHORIZED RESERVE, TRAINING AND RETIREMENT CATEGORIES

RESERVE COMPONENT CATEGORY	RESERVE COMPONENT SUB CATEGORY	RES COMP CATEGORY (RCC DESIGNATOR	TRAINING REQUIREMENT CATEGORY (TRC DESIGNATOR	COMPRISED OF	MINIMUM NUMBER OF PERIODS OF IDT REQUIRED ANNUALLY	MINIMUM NUMBER OF DAYS OF AT REQUIRED ANNUALLY	REMARKS	CURRENTLY USED BY						
								ARNG	USAR	USNR	USMCR	ANG	USAFR	SCGR
READY RESERVE	SELECTED RESERVE	S (TRAINED IN UNITS)	A	INDIVIDUALS IN UNITS	48	RESERVE 14 DAYS (EXCL TRAVEL)	10 USC 270(A)(1) REQUIRES 14 DAYS OF AT EXCL OF TRAVEL TIME		X	X	X		X	X
						GUARD 15 DAYS (INCL TRAVEL)	32 USC 502 REQUIRES A MINIMUM OF 15 DAYS OF AT PER YEAR (BY POLICY INCLUDES TRAVEL TIME)	X				X		
			G	ACTIVE GUARD RESERVE (AGR) IN UNITS	N A	N A	AGR MAY BE REQUIRED TO ATTEND DRILLS (INCLUDES NAVY TARS AND MC FTS) (ARMY BELOW MUSARC (STARC)	X	X	X	X	X	X	
			M	MILITARY TECHNICIANS IN UNITS	48	SAME AS TRC A	MT ARE DUAL STATUS PERSONNEL WHO MUST BE ASSIGNED TO A DRILLING BILLET AND MUST FULFILL THE IDT AND ADT REQUIREMENTS OF THAT BILLET	X	X			X	X	
			T	INDIVIDUALS IN A SIMULTANEOUS MEMBERSHIP PROGRAM	48	SAME AS TRC A	SENIOR ROTC CADETS OR MARINE CORPS PLATOON LEADER CLASS MEMBERS WHO ARE ALSO PERMITTED TO BE MEMBERS OF A SELECTED RESERVE UNIT	X	X		X	X	X	
		I (TRAINED INDIVIDUALS (NON-UNIT))	B	INDIVIDUAL MOBILIZATION AUGMENTEES (IMAs)	IDT VARIES BETWEEN 0 AND 48 DAYS PER YEAR DETERMINED BY COMPONENT POLICY	RESERVE 12 14 DAYS (EXCL TRAVEL)	UNLESS TRAINING CAN BE ACCOMPLISHED ON WEEKENDS AT IS LIMITED TO 12 DAYS BY POLICY REPLACES PREVIOUS TRCs A B C & D FOR IMAs		X	X	X		X	X
			R	INDIVIDUAL ACTIVE GUARD/RESERVE (AGR)	N A	N A	INDIVIDUAL AGR MAY BE REQUIRED TO ATTEND DRILLS DEPENDING ON JOB ASSIGNMENT (INCLUDES NAVY TARS AND TEMAC MC FTS AND ALL STAT TOUR PERSONNEL) (ARMY MUSARC (STARC AND ABOVE)	X	X	X	X	X	X	
			W	INDIVIDUAL MILITARY TECHNICIANS	48	SAME AS UNIT TRC A	EX ARNG ANG STATE HEADQUARTERS NUMBERED AF HQDTS ARNG MAINT DEPOTs	X	X			X	X	
		U (TRAINING PIPELINE (NON-DEPLOYABLE ACCOUNT))	F	PERSONNEL CURRENTLY ON IADT	0	N A	OFFICERS AND ENLISTED INCLUDES 2ND PART OF SPLIT TRAINING AND ARMY ONE STATION UNIT TRAINING (APPLIES TO TRCs F O & P)	X	X	X	X	X	X	X
			O	PERSONNEL AWAITING 2ND PART OF IADT	48	N A		X	X	X				X
			P	PERSONNEL AWAITING ENTRY ON IADT	MINIMUM IDT TO BE DETERMINED BY COMPONENT POLICY	N A	INCLUDES PERSONNEL WITH OR WITHOUT PAY MEMBERS MUST NORMALLY ENTER IADT WITHIN 270 DAYS OF ENLISTMENT	X	X	X	X	X	X	X
			X	PERSONNEL IN OTHER TRAINING PROGRAMS	48	SAME AS UNIT TRC A	SELECTED RESERVE UNTRAINED MEMBERS IN OTHER TRAINING PROGRAMS INCLUDING CHAPLAINS MEDICAL HEALTH PROFESSIONAL STIPEND AND EARLY COMMISSIONING MUST MEET THE SAME TRAINING REQUIREMENTS AS TRC A RESERVISTS	X	X		X			

Appendix B-(continued)

AUTHORIZED RESERVE, TRAINING AND RETIREMENT CATEGORIES

RESERVE COMPONENT CATEGORY	RESERVE COMPONENT SUB CATEGORY	RES COMP CATEGORY (RCC) DESIGNATOR	TRAINING RETIREMENT CATEGORY (TRC) DESIGNATOR	COMPRISED OF	MINIMUM NUMBER OF PERIODS OF 'DT REQUIRED ANNUALLY	MINIMUM NUMBER OF DAYS OF AT REQUIRED ANNUALLY	REMARKS	CURRENTLY USED BY						
								ARNG	USAR	USNR	USMCR	ANG	USAFR	USCGR
READY RESERVE	INDIVIDUAL READY RESERVE: INACTIVE NATIONAL GUARD	R (IRR)	E	TRAINED INDIVIDUAL MEMBERS OF THE IRR	N/A	1	IRR MEMBERS MAY VOLUNTARILY PARTICIPATE IN TRAINING FOR RETIREMENT POINTS AND PROMOTION WITH OR WITHOUT PAY REQUIRED TRAINING MAY NOT EXCEED 30 DAYS PER YEAR PER 10 USC 270 (A) (2) (IF STATUS OF TRAINING IS UNKNOWN USE TRC H)		X	X	X		X	X
			H	INDIVIDUAL MEMBERS OF THE IRR REQUIRING FURTHER TRAINING	N/A	1			X	X	X		X	X
		P (READY RESERVE TRAINING)	J	PERSONNEL NOT IN THE SELECTED RESERVE PARTICIPATING IN OFFICER TRAINING PROGRAMS	0	AS REQUIRED BY SPECIFIC PROGRAM	CHAPLAIN AND JAG SCHOOLING EDUCATION DELAY ROTC ASSIGNMENT DELAY ARMY EARLY COMMISSIONING PROGRAM COAST GUARD DIRECT COMMISSION CANDIDATES M C PLATOON LEADER CLASS 1		X	X	X		X	X
			K	PERSONNEL NOT IN THE SELECTED RESERVE PARTICIPATING IN ARMED FORCES HEALTH SCHOLARSHIP PROGRAMS	0	45 DAYS	HEALTH PROFESSIONS SCHOLARSHIP PROGRAMS 10 USC 2121(c) AND DODD 1215 14 REQUIRE 45 DAYS OF ACTIVE DUTY ANNUALLY		X	X			X	
		I (ING)	I	INACTIVE NATIONAL GUARD (ING)	0	1	MUST MEET ANNUAL MUSTER WITH ASSIGNED UNIT MAY NOT TRAIN FOR POINTS OR PAY AND ARE NOT ELIGIBLE FOR PROMOTION	X						
STANDBY RESERVE		Y (STANDBY)	C	ACTIVE STATUS LIST	0	0	KEY EMPLOYEES ONLY PER DODD 1200 7 ACTIVE STANDBY MEMBERS MAY VOLUNTARILY TRAIN FOR POINTS WITHOUT PAY AND ARE ELIGIBLE FOR PROMOTION		X	X	X		X	X
			D	ACTIVE STATUS LIST	0	0	OTHER ACTIVE STATUS MEMBERS		X	X	X		X	X
			L	INACTIVE STATUS LIST	0	0	MEMBERS TRANSFERRED TO INACTIVE STATUS LIST IN LIEU OF SEPARATION UNDER CH 61 (10 USC 1209) INACTIVE STANDBY MEMBERS MAY NOT TRAIN FOR POINTS WITHOUT PAY AND ARE NOT ELIGIBLE FOR PROMOTION		X	X	X		X	X
			N	INACTIVE STATUS LIST	0	0	OTHER INACTIVE STATUS MEMBERS		X	X	X		X	X

Appendix B-(continued)

AUTHORIZED RESERVE, TRAINING AND RETIREMENT CATEGORIES

RESERVE COMPONENT CATEGORY	RESERVE COMPONENT SUB CATEGORY	RES. COMP CATEGORY (RCC) DESIGNATOR	TRAINING RETIREMENT CATEGORY (TRC) DESIGNATOR	COMPR OF	MINIMUM NUMBER OF PERIODS OF DT REQUIRED ANNUALLY	MINIMUM NUMBER OF DAYS OF AT REQUIRED ANNUALLY	REMARKS	CURRENTLY USED BY						
								ARNG	USAR	USNR	USMCR	ANG	USAFR	USCGR
RETIRED RESERVE		V (RETIRED)	1	DRAWING RESERVE RETIRED PAY UNDER 10 USC 1331	N/A	N/A	RESERVE MEMBERS WHO HAVE COMPLETED 20 QUALIFYING YEARS CREDITABLE FOR RETIREMENT PAY 60 YEARS OR MORE OF AGE AND ARE DRAWING RETIRED PAY (PREV CAT 1)		X	X	X		X	X
			2	NOT DRAWING RETIRED PAY BUT ELIGIBLE AT AGE 60 UNDER 10 USC 1331	N/A	N/A	RESERVE MEMBERS WHO HAVE COMPLETED 20 QUALIFYING YEARS CREDITABLE FOR RETIREMENT PAY BUT ARE NOT YET 60 YEARS OF AGE OR ARE AGE 60 AND NOT APPLIED FOR PAY (PREVIOUS CATEGORY 3)		X	X	X		X	X
			3	RESERVE MEMBERS RETIRED FOR PHYSICAL DISABILITY	N/A	N/A	RESERVE MEMBERS RETIRED FOR PHYSICAL DISABILITY UNDER 10 USC 1201 1202 1204 OR 1205 MEMBERS HAVE 20 YEARS OF ACTIVE SERVICE CREDITABLE FOR RETIREMENT PAY OR ARE MORE THAN 30% DISABLED (PREVIOUS CATEGORY 6)		X	X	X		X	X
			4*	RESERVE MEMBERS WHO HAVE COMPLETED 20 OR MORE YEARS OF ACTIVE DUTY	N/A	N/A	RESERVE MEMBERS WHO HAVE COMPLETED 20 OR MORE YEARS OF ACTIVE DUTY SERVICE AND RETIRED UNDER 10 USC 3911 3914 6323 6330 8911 OR 8914 INCLUDES REGULAR AND RESERVE ARMY AND AF ENLISTED PERSONNEL WITH BETWEEN 20 AND 30 YEARS OF MILITARY SERVICE AND REGULAR AND RESERVE NAVY AND MARINE CORPS ENLISTED PERSONNEL IN THE FLEET RESERVE (NAVY) AND FLEET MARINE CORPS RESERVE WITH BETWEEN 20 AND 30 YEARS OF SERVICE (PREVIOUS CATEGORY 7)		X	X	X			X
			5	DRAWING RESERVE RETIRED PAY UNDER OTHER THAN 10 USC 1331 OR OTHER THAN REASONS OF PHYSICAL DISABILITY	N/A	N/A	RESERVE PERSONNEL DRAWING RETIREMENT PAY BASED ON RETIREMENT FOR REASONS OTHER THAN AGE SERVICE REQUIREMENTS OR PHYSICAL DISABILITY THIS CATEGORY IS RESTRICTED TO THOSE WHO ARE RETIRED UNDER SPECIAL CONDITIONS AS AUTHORIZED BY THE ASSISTANT SECRETARY OF DEFENSE (RESERVE AFFAIRS) PURSUANT TO LEGISLATION			X	X			
			6	NOT DRAWING RETIRED PAY AND NOT ELIGIBLE AT AGE 60 HONORARY RETIREES	N/A	N/A	MEMBERS WHO ARE NOT ELIGIBLE FOR RETIRED PAY BUT WHO HAVE REQUESTED PLACEMENT ON THE HONORARY RETIRED LIST UNDER 10 USC 274 AND DODI 1200 15 (C) 3 + 4 (PREVIOUS CATEGORY 5)		X	X			X	X

*NOTE PREVIOUS CATEGORY 4 DELETED SEE TEXT

BILLING CODE 3810-01-C

Appendix C-Acronyms

Acronym	Description	Page established
AC	Active Component	10
AD	Active Duty	2
ADSW	Active Duty for Special Work	2
ADT	Active Duty Training	2
AFTP	Additional Flying and Flight Training Period.	3
AGR	Active Guard/Reserve	4
ASD(RA)	Assistant Secretary of Defense (Reserve Affairs).	8
AT	Annual Training	2
ATP	Additional Training Periods	3
CIV	Civil Service Employee	2-2
CONUS	Continental United States	1
CPSD	Civil Preparedness Support Detachment.	10
DoD	Department of Defense	1
DoT	Department of Transportation	1
FEMA	Federal Emergency Management Agency.	9
FY	Fiscal Year	3
IADT	Initial ADT	4
IDT	Inactive Duty Training	2
IMA	Individual Mobilization Augmentees	5
ING	Inactive National Guard	2-1
IRR	Individual Ready Reserve	2
JCS	Joint Chiefs of Staff	2-1
MIDTP	Multiple IDT Periods	3
MSO	Military Service Obligation	6
MSSA	Military Selective Service Act	8
MUSARC	Major U.S. Army Reserve Command.	2-2
NPS	Nonprior Service	4
OJCS	Organization of the Joint Chiefs of Staff.	1
OSD	Office of Secretary of Defense	1
RCCPDS	Reserve Components Common Personnel Data System.	1
RCC	Reserve Component Category	1
RC	Reserve Component	1
RMEC	Regional Military Emergency Coordinator.	9
RMP	Readiness Management Period	3
ROTC	Reserve Officers Training Corps	2-2
SSS	Selective Service System	1
STARC	State Area Command	9
TAR	Training and Administration of the Reserve.	4
TRC	Training and/or Retired Categories	1
USAR	U.S. Army Reserve	10

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.
December 22, 1987.

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BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-87-094]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Atlantic Beach, NC

AGENCY: Coast Guard, DOT.

ACTION: Final Rule-Revocation.

SUMMARY: This amendment revokes the regulations for the S. 58 drawbridge across the Atlantic Intracoastal Waterway, mile 206.7, because the swing bridge has been removed. Regulations for the other bridges on the Atlantic Intracoastal Waterway remain unchanged. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: These regulations become effective December 29, 1987.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704, (804) 398-6222.

Drafting information: The drafters of these regulations are Linda L. Gilliam, Project Officer, and CDR Robert J. Reining, Project Attorney.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations for a swing bridge that no longer exists. Consequently, this action is considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended as follows:

PART 117—DRAWBRIDGE REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1-46; 33 CFR 1-05-1(g)

§ 117.821 [Amended]

2. Section 117.821 (b) is removed and paragraphs (c) and (d) are redesignated as paragraphs (b) and (c).

Dated: December 8, 1987.

A.D. Breed,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 87-29754 Filed 12-28-87; 8:45 am]

BILLING CODE 491-014-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 304

[Docket No. CRT 87-4 PBRA]

1987 Adjustment of the Public Broadcasting Royalty Rates and Terms

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of final determination.

SUMMARY: This notice announces the adoption of final rules governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works. The terms and rates shall apply for the five-year period 1988-1992.

DATE: The effective date of these rules is January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, 1111 20th Street NW., Suite 450, Washington, DC 20036 (202-653-5175).

SUPPLEMENTARY INFORMATION: 17 U.S.C. 118 establishes a copyright compulsory license for the use by public broadcasting entities of published nondramatic musical works and published pictorial, graphic, and sculptural works. 17 U.S.C. 118(c) provides that between June 30 and December 31 of every year ending in a 2 or a 7, the Tribunal shall conduct a proceeding for the determination of reasonable terms and rates of royalty payments for the use of these works. Accordingly, the Tribunal commenced the 1987 public broadcasting rate adjustment proceeding on June 30, 1987. 52 FR 24326. On November 20, 1987, the Tribunal published in the **Federal Register** a notice of proposed rulemaking. In the notice, the Tribunal described the structure and chronology of the 1987 public broadcasting rate adjustment proceeding, the rates proposed by the various parties, and our reasons for proposing or not proposing the recommended terms and rates. 52 FR 44610.[1] Comments were due December 15, 1987.

[1] The Notice of Proposed Rulemaking, 52 FR 44610 (November 20, 1987), the Further Notice of Proposed Rulemaking 52 FR 45664 (December 1, 1987), and this Notice of Final Determination together constitute the final determination of the 1987 Public Broadcasting Rate Adjustment Proceeding.

The PBS/NPR/SESAC Issue

At the time the Tribunal published the Notice of Proposed Rulemaking on November 20, Public Broadcasting Service (PBS) and National Public Radio (NPR) were attempting to finalize a voluntary license agreement with SESAC, Inc. (SESAC). Absent an agreement between PBS, NPR, and SESAC, the Tribunal announced its intention to render a final determination on PBS and NPR use of the music in SESAC's repertory based upon the written record of the proceeding by the December 31, 1987 statutory deadline. Subsequent to the publication of the Notice of Proposed Rulemaking, the Tribunal was informed by PBS, NPR and SESAC that they had finalized their voluntary license agreement, and that a disposition of the PBS/NPR/SESAC issue by the Tribunal was no longer necessary. Accordingly, the Tribunal adopts no regulations to govern the use by PBS and NPR of musical compositions found in the catalogue of SESAC.

The Comments

The Tribunal received five comments in response to its Notice of Proposed Rulemaking. The commenters were PBS, NPR, the American Society of Composers, Authors, and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and a joint comment was filed by the National Federation of Community Broadcasters (NFCB), and the National Religious Broadcasters Noncommercial Radio Music License Committee (NRB). Each one of the commenters supports the substantive rule changes proposed by the Tribunal. PBS, NPR, and ASCAP filed recommended editorial changes in the proposed rules and they are discussed as follows:

ASCAP agreed with the Tribunal that the language proposed by ASCAP and the American Council on Education (ACE) for a yearly cost of living adjustment to the rate paid by colleges and universities not affiliated with NPR would have, if taken literally, resulted in an eleven-month cost of living adjustment rather than a twelve-month cost of living adjustment. ASCAP stated that it was the intention of ASCAP and ACE to propose a full yearly cost of living adjustment, and therefore, agreed with the Tribunal's re-wording of the proposed regulation. However, ASCAP has proposed in its comments a slighly different regulation which it believes results in a more tightly written rule, leaving no doubt as to which Consumer Price Index figures are to be used by the Tribunal. The Tribunal agrees with ASCAP's comments and accordingly, adopts ASCAP's latest draft for § 304.10.

PBS and NPR reviewed the Tribunal's rules and indicated in their comments where they believe the Tribunal made inadvertent omissions from the rules previously adopted, and where they believe the Tribunal made typographical errors. In each instance cited by PBS and NPR, they are correct that the discrepancies noted were either omissions or typographical errors, and they have been corrected in the final rules.

PBS expressed some concern that some language changes in the proposed regulations could be construed as having a substantive purpose, unless the purely editorial nature of the change is made clear. Specifically, PBS points to the Tribunal's substitution of "voluntary written agreements" for "17 U.S.C. 118(b)(2)" in §§ 304.4 and 304.7(a), and PBS recommends that the Tribunal retain "17 U.S.C. 118(b)(2)," as previously written.

To allay PBS' concerns, the Tribunal states that unless a language change has been explained in the Notice of Proposed Rulemaking, the Further Notice of Proposed Rulemaking, or the Notice of Final Determination, the change was meant for purely editorial reasons and no substantive modification was intended. The reason the Tribunal has changed "17 U.S.C. 118(b)(2)" to "voluntary written agreements" in §§ 304.4 and 304.7(a), and the reason the Tribunal has included reference to the agreements by PBS and NPR with ASCAP, BMI and SESAC in § 304.4 is based upon our experience with the public's difficulty with reading Part 304. The most commonly asked question of this agency is: How much does PBS and NPR pay ASCAP, BMI, and SESAC? The answer is that the Tribunal has no regulations regarding such payments, because they are subject to voluntary license agreements. It is hoped that the new language in section 304 will make this clearer to the public.

Similarly, the Tribunal changed the phrase "nonprofit radio stations" to "noncommercial radio stations," because the Tribunal follows the FCC's definition in such matters, and the FCC uses the phrase "noncommercial radio station."

List of Subjects in 37 CFR Part 304

Copyright, Music, Radio, Television.

For the reasons set forth in the preamble, Part 304 of Chapter III, Title 37, Code of Federal Regulations is revised as follows:

PART 304—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL BROADCASTING

Sec.
304.1 General.
304.2 Definition of public broadcasting entity.
304.3 [Reserved]
304.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(d).
304.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.
304.6 Performance of musical compositions by other public broadcasting entities.
304.7 Recording rights, rates and terms.
304.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.
304.9 Unknown copyright owners.
304.10 Cost of living adjustment.
304.11 Notice of restrictions on use of reproductions of transmission programs.
304.12 Amendment of certain regulations.
304.13 Issuance of interpretative regulations.

Authority: 17 U.S.C. 118, 801(b)(1) and 804.

§ 304.1 General.

This Part 304 establishes terms and rates of royalty payments for certain activities using published nondramatic musical works and published pictorial, graphic and sculptural works during a period beginning on January 1, 1988 and ending on December 31, 1992. Upon compliance with 17 U.S.C. 118, and the terms and rates of this part, a public broadcasting entity may engage in the activities with respect to such works set forth in 17 U.S.C. 118(d).

§ 304.2 Definition of public broadcasting entity.

As used in this part, the term "public broadcasting entity" means a noncommercial educational broadcast station as defined in section 397 of Title 47 and any nonprofit institution or organization engaged in the activities described in 17 U.S.C. 118(d)(2).

§ 304.3 [Reserved]

§ 304.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(d).

The following schedule of rates and terms shall apply to the performance by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(d) of copyrighted published nondramatic musical compositions, except for public broadcasting entities covered by Sections 304.5 and 304.6, and except for compositions which are the subject of

voluntary license agreements, such as the PBS/NPR/ASCAP, the PBS/NPR/BMI and the PBS/NPR/SESAC license agreements.

(a) *Determination of royalty rate.* (1) For the performance of such a work in a feature presentation of PBS:

1988-1989	1990-1991	1992
$166.00	$175.00	$184.00

(2) For the performance of such a work as background or theme music in a PBS program:

1988-1989	1990-1991	1992
$42.00	$44.35	$46.70

(3) For the performance of such a work in a feature presentation of a station of PBS:

1988-1989	1990-1991	1992
$14.00	$15.00	$16.00

(4) For the performance of such a work as background or theme music in a program of a station of PBS:

1988-1989	1990-1991	1992
$3.00	$3.15	3.30

(5) For the performance of such a work in a feature presentation of NPR:

1988-1989	1990-1991	1992
$16.80	$17.75	18.70

(6) For the performance of such a work as background or theme music in an NPR program:

1988-1989	1990-1991	1992
$4.10	$4.30	$4.50

(7) For the performance of such a work in a feature presentation of a station of NPR:

1988-1989	1990-1991	1992
$1.20	$1.25	$1.30

(8) For the performance of such a work as background or theme music in a program of a station of NPR:

1988-1989	1990-1991	1992
$0.40	$0.45	$0.50

(9) For the purpose of this schedule the rate for the performance of theme music in an entire series shall be double the single program theme rate.

(10) In the event the work is first performed in a program of a station of PBS or NPR, and such program is subsequently distributed by PBS or NPR, an additional royalty payment shall be made equal to the difference between the rate specified in this section for a program of a station of PBS or NPR, respectively, and the rate specified in this section for a PBS or NPR program, respectively.

(b) *Payment of royalty rate.* The required royalty rate shall be paid to each known copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year.

(c) *Records of use.* PBS and NPR shall, upon request of a copyright owner of a published musical work who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner a reasonable opportunity to examine their standard cue sheets listing the nondramatic performances of musical compositions on PBS and NPR programs. Any local PBS and NPR station that is required by paragraph 4b of the PBS/NPR/ASCAP license agreement dated October 5, 1987 to prepare a music use report shall, upon request of a copyright owner who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner to examine the report.

(d) *Terms of use.* The applicable fee in this schedule shall be the fee for the time period during which the first performance in a program occurred, and shall cover performances of such work in such program for a period of three years following the first performance.

§ 304.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by noncommercial radio stations which are licensed to colleges, universities, or other nonprofit educational institutions and which are not affiliated with National Public Radio.

(b) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established by this section, the rates and terms of any license agreements entered into by copyright owners and colleges, universities, and other nonprofit educational institutions concerning the performance of copyrighted musical compositions, including performances by noncommercial radio stations, shall apply in lieu of the rates and terms of this section.

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertory of ASCAP annually—$159.

(2) For all such compositions in the repertory of BMI annually—$159.

(3) For all such compositions in the repertory of SESAC annually—$37.

(4) For the performance of any other such composition—$1.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI and SESAC not later than January 31 of each year.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI and SESAC, upon request, a music-use report during one week of each calendar year. ASCAP, BMI and SESAC shall not in any one calendar year request more than 10 stations to furnish such reports.

§ 304.6 Performance of musical compositions by other public broadcasting entities.

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by radio stations not licensed to colleges, universities, or other nonprofit educational institutions and which are not affiliated with National Public Radio.

(b) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established in this section, the rates and terms of any license agreements entered into by copyright owners and noncommercial radio stations within the scope of this section concerning the performance of copyrighted musical compositions, including performances by noncommercial radio stations, shall apply in lieu of the rates and terms of this section.

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertory of ASCAP, in 1988, $230; in 1989, $240; in 1990, $250; in 1991, $265; in 1992, $280.

(2) For all such compositions in the repertory of BMI, in 1988, $230; in 1989, $240; in 1990, $250; in 1991, $265; in 1992, $280.

(3) For all such compositions in the repertory of SESAC, in 1988, $50; in 1989, $52; in 1990, $54; in 1991, $57; in 1992, $60.

(4) For the performance of any other such compositions, in 1988 through 1992, $1.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI, and SESAC not later than January 31 of each year.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI, and SESAC, upon request, a music-use report during one week of each calendar year. ASCAP, BMI, and SESAC each shall not in any one calendar year request more than 5 stations to furnish such reports.

§ 304.7 Recording rights, rates and terms.

(a) *Scope.* This section establishes rates and terms for the recording of nondramatic performances and displays of musical works, other than compositions subject to voluntary license agreements, on and for the radio and television programs of public broadcasting entities, whether or not in synchronization or timed relationship with the visual or aural content, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities. The rates and terms established in this schedule include the making of the reproductions described in 17 U.S.C. 118(d)(3).

(b) *Royalty rate.* (1)(i) For uses described in paragraph (a) of this section of a musical work in a PBS-distributed program, the royalty fees shall be calculated by mutiplying the following per-composition rates by the number of different compositions in that PBS-distributed program:

	1988-1989	1990-1991	1992
Feature	$83.35	$87.70	$92.05
Concert feature (per minute)	24.95	26.35	27.75
Background	42.00	44.35	46.70
Theme:			
Single program or first series program	42.00	44.35	46.70
Other series program	17.05	18.00	18.95

(ii) For such uses other than in a PBS-distributed television program, the royalty fee shall be calculated by multiplying the following per-composition rates by the number of different compositions in that program:

	1988-1989	1990-1991	1992
Feature	$6.65	$7.30	$7.95
Concert feature (per minute)	1.80	1.90	2.00
Background	3.00	3.15	3.30
Theme:			
Single program of first series program	3.00	3.15	3.30
Other series program	1.20	1.25	1.30

(iii) In the event the work is first recorded other than in a PBS-distributed program, and such program is subsequently distributed by PBS, an additional royalty payment shall be made equal to the difference between the rate specified in this section for other than a PBS-distributed program and the rate specified in this section for a PBS-distributed program.

(2) For uses licensed herein of a musical work in a NPR program, the royalty fees shall be calculated by multiplying the following per-composition rates by the number of different compositions in any NPR program distributed by NPR. For purposes of this schedule "National Public Radio" programs include all programs produced in whole or in part by NPR, or by any NPR station or organization under contract with NPR.

	1988-1989	1990-1991	1992
Feature	$9.00	$9.50	$10.00
Concert feature (per half hour)	13.00	14.00	15.00
Background	4.50	4.75	5.00
Theme:			
Single program of first series program	4.50	4.75	5.00
Other series program	1.80	1.90	2.00

(3) For the purposes of this schedule, a "Concert Feature" shall be deemed to be the nondramatic presentation in a program of all or part of a symphony, concerto, or other serious work originally written for concert performance or the nondramatic presentation in a program of portions of a serious work originally written for opera performance.

(4) For such uses other than in a NPR-produced radio program:

Feature	$.60
Feature (concert) (per half hour)	1.20
Background	.30

(5) The schedule of fees covers broadcast use for a period of three years following the first broadcast. Succeeding broadcast use periods will require the following additional payment: second three-year period—50 percent; each three-year period thereafter—25 percent; provided that a 100 percent additional payment prior to the expiration of the first three-year period will cover broadcast use during all subsequent broadcast use periods without limitation. Such succeeding uses which are subsequent to December 31, 1992 shall be subject to the royalty rates established in this schedule.

(c) *Payment of royalty rates.* The required royalty rate shall be paid to each known copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year.

(d) *Records of use.* (1) Maintenance of cue sheets. PBS and its stations, NPR or other television public broadcasting entity shall maintain and make available for examination pursuant to subsection (e) copies of their standard cue sheets or summaries of same listing the recording of the musical works of such copyright owners.

(2) Content of cue sheets or summaries. Such cue sheets or summaries shall include:

(i) The title, composer and author to the extent such information is reasonably obtainable.

(ii) The type of use and manner of performance thereof in each case.

(iii) For Concert Feature music, the actual recorded time period on the program, plus all distribution and broadcast information available to the public broadcasting entity.

(e) *Filing of use reports with the Copyright Royalty Tribunal (CRT).* (1) Deposits of cue sheets or summaries. PBS and its stations, NPR, or other television public broadcasting entity shall deposit with the CRT copies of their standard music cue sheets or summaries of same (which may be in the form of hard copy of computerized reports) listing the recording pursuant to this schedule of the musical work of copyright owners. Such cue sheets or summaries shall be deposited not later than July 31 of each calendar year for recordings during the first six months of the calendar year and not later than January 31 of each calendar year for recordings during the second six months of the preceding calendar year. PBS and NPR shall maintain at their offices copies of all standard music cue sheets from which such music use reports are prepared. Such music cue sheets shall be furnished to the CRT upon its request and also shall be available during regular business hours at the offices of PBS or NPR for examination by a copyright owner who believes a musical composition of such owner has been recorded pursuant to this schedule.

§ 304.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.

(a) *Scope.* This section establishes rates and terms for the use of published pictorial, graphic, and sculptural works by public broadcasting entities for the activities described in 17 U.S.C. 118. The rates and terms established in this schedule include the making of the reproduction described in 17 U.S.C. 118(d)(3).

(b) *Royalty rate.* (1) The following schedule of rates shall apply to the use of works within the scope of this section:

(i) For such uses in a PBS-distributed program:

(A) For a featured display of a work.

1988-1989	1990-1991	1992
$55.00	$58.00	$61.00

(B) For background and montage display.

1988-1989	1990-1991	1992
$26.75	$28.25	$29.75

(C) For use of a work for program identification or for thematic use.

1988-1989	1990-1991	1992
$108.25	$114.25	$120.25

(D) For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule.

1988-1989	1990-1991	1992
$35.50	$37.50	$39.50

(ii) For such uses in other than PBS-distributed programs:

(A) For a featured display of a work.

1988-1989	1990-1991	1992
$35.50	$37.50	$39.50

(B) For background and montage display.

1988-1989	1990-1991	1992
$18.25	$19.25	$20.25

(C) For use of a work for program identification or for thematic use.

1988-1989	1990-1991	1992
$72.75	$76.75	$80.75

(D) For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule.

1988-1989	1990-1991	1992
$18.25	$19.25	$20.25

For the purposes of this schedule the rate for the thematic use of a work in an entire series shall be double the single program theme rate. In the event the work is first used other than in a PBS-distributed program, and such program is subsequently distributed by PBS, an additional royalty payment shall be made equal to the difference between the rate specified in this section for other than PBS-distributed program and the rate specified in this section for a PBS-distributed program.

(2) "Featured display" for purposes of this schedule means a full-screen or substantially full-screen display appearing on the screen for more than three seconds. Any display less than full-screen or substantially full-screen, or full-screen for three seconds or less, is deemed to be a "background or montage display".

(3) "Thematic use" is the utilization of the works of one or more artists where the works constitute the central theme of the program or convey a story line.

(4) "Display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced" means a transparency or other reproduction of an underlying work of fine art.

(c) *Payment of royalty rate.* PBS or other public broadcasting entity shall pay the required royalty fees to each copyrighted owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year.

(d) *Records of use.* (1) PBS and its stations or other public broadcasting entity shall maintain and furnish either to copyright owners, or to the offices of generally recognized organizations representing the copyright owners of pictorial, graphic, and sculptural works, copies of their standard lists containing the pictorial, graphic, and sculptural works displayed on their programs. Such notice shall include the name of the copyright owner, if known, the specific source from which the work was taken, a description of the work used, the title of the program on which the work was used, and the date of the original broadcast of the program.

(2) Such listings shall be furnished not later than July 31 of each calendar year for displays during the first six months of the calendar year, and not later than January 31 of each calendar year for displays during the second six months of the preceding calendar year.

(e) *Filing of use reports with the CRT.* (1) PBS and its stations or other public broadcasting entity shall deposit with the CRT copies of their standard lists containing the pictorial, graphic, and sculptural works displayed on their programs. Such notice shall include the name of the copyright owner, if known, the specific source from which the work was taken, a description of the work used, the title of the program on which the work was used, and the date of the original broadcast of the program.

(2) Such listings shall be furnished not later than July 31 of each calendar year for displays during the first six months of the calendar year, and not later than January 31 of each calendar year for displays during the second six months of the preceding calendar year.

(f) *Terms of use.* (1) The rates of this schedule are for unlimited broadcast use for a period of three years from the date of the first broadcast use of the work under this schedule. Succeeding broadcast use periods will require the following additional payment: second three-year period—50 percent; each three-year period thereafter—25 percent; provided that a 100 percent additional payment prior to the expiration of the first three-year period will cover broadcast use periods without limitation. Such succeeding uses which are subsequent to December 31, 1992 shall be subject to the rates established in this schedule.

(2) Pursuant to the provisions of 17 U.S.C. 118(f), nothing in this schedule shall be construed to permit, beyond the limits of fair use as provided in 17 U.S.C. 107, the production of a transmission program drawn to any substantial extent from a published compilation of pictorial, graphic, or sculptural works.

§ 304.9 Unknown copyright owners.

If PBS and its stations, NPR and its stations, or other public broadcasting entity is not aware of the identity of, or unable to locate, a copyright owner who is entitled to receive a royalty payment under this Part, they shall retain the required fee in a segregated trust account for a period of three years from

the date of the required payment. No claim to such royalty fees shall be valid after the expiration of the three year period. Public broadcasting entities may establish a joint trust fund for the purposes of this section. Public broadcasting entities shall make available to the CRT, upon request, information concerning fees deposited in trust funds.

§ 304.10 Cost of living adjustment.

(a) On December 1, 1988 the CRT shall publish in the **Federal Register** a notice of the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published prior to December 1, 1987 to the most recent Index published prior to December 1, 1988. On each December 1 thereafter the CRT shall publish a notice of the change in the cost of living during the period from the most recent Index published prior to the previous notice to the most recent Index published prior to December 1 of that year.

(b) On the same date of the notices published pursuant to paragraph (a) of the section, the CRT shall publish in the **Federal Register** a revised schedule of rates for § 304.5 which shall adjust those royalty amounts established in dollar amounts according to the change in the cost of living determined as provided in paragraph (a) of this section. Such royalty rates shall be fixed at the nearest dollar.

(c) The adjusted schedule of rates for § 304.5 shall become effective thirty days after publication in the **Federal Register.**

§ 304.11 Notice of restrictions on use of reproductions of transmission programs.

Any public broadcasting entity which, pursuant to 17 U.S.C. 118, supplies a reproduction of a transmission program to governmental bodies or nonprofit institutions shall include with each copy of the reproduction a warning notice stating in substance that the reproductions may be used for a period of no more than seven days from the specified date of transmission, that the reproductions must be destroyed by the user before or at the end of such period, and that a failure to fully comply with these terms shall subject the body or institution to the remedies for infringement of copyright.

§ 304.12 Amendment of certain regulations.

Subject to 17 U.S.C. 118, the Administrative Procedure Act and the Rules of Procedure of the Copyright Royalty Tribunal, the CRT may at any time amend, modify or repeal regulations in this part adopted pursuant to 17 U.S.C. 118(b)(3) by which "copyright owners may receive reasonable notice of the use of their works" and "under which records of such use shall be kept by public broadcasting entities."

§ 304.13 Issuance of interpretative regulations.

Subject to 17 U.S.C. 118, the Administrative Procedure Act and the Rules of Procedure of the Copyright Royalty Tribunal, the CRT may at any time, either on its own motion or the motion of a person having a significant interest in the subject matter, issue such interpretative regulations as may be necessary or useful to the implementation of this part. Such regulations may not prior to January 1, 1993 alter the schedule of rates and terms of royalty payments by this part.

Mario F. Aguero,

Chairman.

Dated: December 21, 1987.

[FR Doc. 87-29594 Filed 12-28-87; 8:45 am]

BILLING CODE 1410-09-M

POSTAL SERVICE

39 CFR Part 224

Miscellaneous Organizational Changes; Correction

AGENCY: Postal Service.

ACTION: Final rule; correction.

SUMMARY: The purpose of this document is to correct an error in the revised functional statement of the Rates and Classification Department of the Finance and Planning Group at Headquarters which, along with a number of other functional statements, was published in the **Federal Register** on December 11, 1987 (52 FR 46998).

EFFECTIVE DATE: December 11, 1987.

FOR FURTHER INFORMATION CONTACT: Richard W. Peterson (202) 268-4183.

SUPPLEMENTAL INFORMATION: In FR Doc. 87-28514, in the issue of Friday, December 11, 1987, the Postal Service published a final rule revising the functional statements of the various Headquarters and field groups, divisions and offices to reflect a general reorganization and realignment of functions. One of the stated functions of the Rates and Classification Department at Headquarters was "developing and litigating rate recommendations to the Postal Rate Commission". The word "litigating" is incorrect; it should have read "supporting".

For the above reason, the Postal Service hereby corrects FR Doc. 87-28514, beginning on page 46998 in the issue of Friday, December 11, 1987, as follows:

PART 224—[AMENDED]

§ 224.2 [Amended]

On page 46998, middle column, in paragraph (c)(4) of § 224.2, strike out the word "litigating" and insert "supporting" in lieu thereof.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-29689 Filed 12-28-87; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

47 CFR Part 300

Incorporation by Reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Final rule.

SUMMARY: Within the jurisdiction of the United States Government, use of the radio frequency spectrum for radio transmissions for telecommunications or for other purposes shall be made by the United States Government Stations only as authorized by the Assistant Secretary of Commerce for Communications and Information (hereinafter referred to as the Assistant Secretary). Such use shall, unless specific provision is made otherwise, comply with the provisions of the Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual). The incorporation by reference of the NTIA Manual in the Code of Federal Regulations is to advise non-frequency managers in the Federal Agencies of the regulations governing the use of the radio frequency spectrum.

EFFECTIVE DATE: December 29, 1987.

The incorporation by reference of the publication listed in the regulations is approved by the Director of the **Federal Register** as of December 29, 1987.

FOR FURTHER INFORMATION CONTACT: Edwin E. Dinkle, National Telecommunications and Information Administration, Department of Commerce, Room H1605, 14th and

Constitution Avenue NW., Washington, DC 20230; (202) 377-0599.

SUPPLEMENTARY INFORMATION: The President by Reorganization Plan No. 1 of 1977 and Executive Order 12046 of March 27, 1978, delegated to the Secretary of Commerce authority to act for the President or under the President's authority in the discharge of certain Presidential telecommunication functions under the Communications Act of 1934, as amended, and the Communications Satellite Act of 1962.

The Secretary of Commerce has delegated this Presidential authority to the Assistant Secretary of Commerce for Communications and Information (the Assistant Secretary). The Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual) is issued by the Assistant Secretary, and is specifically designed to detail the Assistant Secretary's frequency management responsibilities.

List of Subjects in 47 CFR Part 300

Incorporation by Reference: Radio, Telecommunications.

1. Therefore there is established in Title 47 of the Code of Federal Regulations (Telecommunications), a new Chapter III—National Telecommunications and Information Administration, Department of Commerce. Chapter III will consist of Part 300—Manual of Regulations and Procedures for Federal Radio and Frequency Management.

PART 300—[AMENDED]

Sec.

300.1 Incorporation by reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management.

Authority: Exec. Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp., p. 158.

§ 300.1 Incorporation by Reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management

(a) The Manual of Regulations and Procedures for Federal Radio Frequency Management (hereinafter referred to as the NTIA Manual) is issued by the Assistant Secretary of Commerce for Communications and Information, and is specifically designed to cover the Assistant Secretary's frequency management responsibilities pursuant to delegated authority under Executive Order 12046 (March 27, 1978).

(b) The Federal agencies shall meet the requirements set forth in the May 1986 edition of the NTIA Manual, as amended, which is incorporated by reference with the approval of the Director, Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

(c) The NTIA Manual is updated January, May, and September of each year and notice of these changes are printed in the **Federal Register.** The NTIA Manual can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, by referring to Catalog Number 903-008-00000-8. The NTIA Manual is on file at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC 20408.

Richard D. Parlow,

Associate Administrator.

[FR Doc. 87-29688 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-60-M

VETERANS ADMINISTRATION

48 CFR Parts 801, 814, 815, 833, 836, 842 and 852

Acquisition Regulations Concerning the Competition in Contracting Act; Technical Amendments

AGENCY: Veterans Administration.

ACTION: Final technical amendments.

SUMMARY: The Veterans Administration (VA) amends its regulations concerning the Competition in Contracting Act (CICA) and the FAC (Federal Acquisition Circular) 84-5 to: (1) correct references to the Office of Construction which the VA renamed the Office of Facilities; (2) correct references to other provisions referred to in the VAAR; (3) correct references to organizational element titles which were changed due to reorganization within the VA; (4) correct language inadvertently omitted from the CICA final regulation published on July 31, 1987, in the **Federal Register** (52 FR 28558); and (4) correct erroneous terminology.

EFFECTIVE DATE: July 31, 1987.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Chief Policy Division, Office of Procurement and Supply (91A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2334.

SUPPLEMENTARY INFORMATION: All the changes contained in these regulations are technical ones designed to correct erroneous references, reflect new organizational titles, correct language which was inadvertently omitted from the final CICA regulation, and correct erroneous terminology. There are no substantive changes. Public participation in this rulemaking is therefore unnecessary (5 U.S.C. 553(d)(3)).

This rule has been reviewed in conjunction with Executive Order 12291, Federal Regulation, and has been determined not to be a "major rule" as defined therein.

Since a notice of proposed rulemaking is unnecessary and will not be published, these amendments do not come within the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), and are therefore not subject to the requirements of the Act. Nevertheless, these amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612.

These amendments do not impose any additional reporting or recordkeeping requirements on the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 801, 814, 815, 833, 836, 842, and 852

Government procurement.

Approved: December 15, 1987.

Thomas K. Turnage,

Administrator.

48 CFR Parts 801, 814, 815, 833, 836, 842, and 852 are amended as follows:

1. The authority citation for Parts 801, 814, 815, 833, 836, 842 and 852 continues to read as follows:

Authority: 38 U.S.C. 210 and 40 U.S.C. 486(c).

PART 801—VETERANS ADMINISTRATION ACQUISITION REGULATIONS SYSTEM

801.404 [Amended]

2. Section 801.404 is amended by removing the words "Agency Procurement Executive" and adding, in their place, the words, "Senior Procurement Executive".

3. a. In subsection 801.602-70, paragraph (a)(6) is revised to read as set forth below.

b. In subsection 801.602-70, paragraph (a)(7) is amended by removing the words "formally advertised" and adding, in their place, the words "sealed bid".

c. In subsection 801.602-70, paragraph (g) is amended by removing "814.407-8(a) " and adding, in its place, "813.103".

801.602-70 Legal/technical review requirements to be met prior to contract execution.

(a) * * *

(6) Any proposed agreement that is unique, novel or unusual (including all consignment agreements, regardless of

anticipated dollar value—except those established and provided in Federal Supply Schedule Contracts).

* * * * *

801.602-71 [Amended]

4. a. In subsection 801.602-71, paragraph (b)(2) is amended by removing "815.204" and adding, in its place, "815.7001".

b. In subsection 810.602-71, paragraph (b)(4) is amended by removing "801.602-70(a)(4)(ii)" and adding, in its place, "801.602-70(d)(4)(ii)".

801.602-72 [Amended]

5. In subsection 801.602-72, paragraph (b) is amended by removing "815.204(e)" and adding, in its place, "815.7001".

PART 814—SEALED BIDDING

6. In section 814.201, the tables in paragraphs (d)(1) and (d)(2) are revised to read as follows:

814.201 Preparation of invitations for bids.

* * * * *

(d) * * *

(1) * * *

Quantity	Unit	Unit Price	Summary
XX	XX	XX	$ XX

(Bidder will enter summary amount.)

Quantity	Unit	Unit Price	Summary
XX	XX	XX	$ XX

(Bidder will enter unit price and summary amount.)

* * * * *

814.202-4 [Amended]

7. Subsection 814.202-4 is amended by removing the word "clause" and adding in its place, the word "provision".

PART 815—CONTRACTING BY NEGOTIATION

8. In section 815.7001, paragraph (c) introductory text is amended by revising the last sentence, and paragraph (c)(5) is revised to read as follows:

815.7001 Personal or professional services.

* * * * *

(c) * * * Except as provided in paragraph (d) of this section, such proposed contracts will be submitted for approval to the Director for Operations (10B/EMS), when authority is 38 U.S.C. 5053 or 38 U.S.C. 4117, so as to reach Central Office 60 days prior to effective date of the contract.

* * * * *

(5) A copy of all executed sharing contracts, both new and renewal, will be forwarded to the Director for Operations (10B/EMS) for review and for purposes of making the annual report to Congress as required by 38 U.S.C. 5057.

* * * * *

PART 833—PROTESTS, DISPUTES, APPEALS

9. In section 833.103, paragraph (b)(1) is revised as set forth below and paragraph (f)(2) is amended by removing the words "(June 1985)" and adding, in their place, the words "(July 1985)".

833.103 Protests to the agency

* * * * *

(b) * * * (1) All solicitations, except those issued by the Office of Facilities, will instruct interested parties to deliver a copy of any GAO or GSBCA protest to the contracting officer and the Director, Office of Procurement and Supply (93D), VA Central Office, 810 Vermont Avenue NW., Washington, DC 20420, by adding this requirement to its service of protest provision, FAR 52.233-2.

* * * * *

PART 836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

10. In Part 836, all references to "Office of Construction" are revised to read "Office of Facilities".

PART 842—CONTRACT ADMINISTRATION

842.705 [Amended]

11. In section 842.705, paragraph (b) is amended by removing the words "Office of Construction" wherever they appear, and adding, in their place, "Office of Facilities".

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

852.233-70 [Amended]

12. In subsection 852.233-70, the provision heading is amended by removing the words "(Jan 1987)" and adding, in their place, the words "(June 1987)".

852.236-88 [Amended]

13. a. In subsection 852.236-88, the heading to the clause in paragraph (b) is amended by removing the word "Over".

b. In the clause to paragraph (b), paragraph (g) is amended by removing the word "subcontractor's" and adding, in its place, the word "subcontractors' ".

[FR Doc. 87-29585 Filed 12-28-87; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF COMMERCE

National Oceanic And Atmospheric Administration

50 CFR Part 371

[Docket No. 60616-6116]

Fraser River Sockeye and Pink Salmon Fisheries

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

ACTION: Notice of 1987 in-season orders.

SUMMARY: The Secretary of Commerce (Secretary) hereby publishes all the in-season orders that were issued by the Fraser River Panel (Panel) of the Pacific Salmon Commission (Commission) and subsequently approved and issued by the Secretary during the 1987 sockeye and pink salmon fisheries in United States waters within the Fraser River Panel Area [Fraser River Panel Area (U.S.)]. These orders, established fishing times, areas, and types of gear for U.S. treaty Indian and all-citizen fisheries during the period the Commission exercised jurisdiction over these fisheries.

Due to the frequency with which in-season orders are issued, publication of individual orders is impracticable. All the 1987 orders are therefore being published in this notice to avoid fragmentation.

EFFECTIVE DATES: Each of the following in-season orders of the Secretary was effective upon announcement on telephone hotlines as specified at 50 CFR 371.21(b)(1) (51 FR 23425, June 27, 1986).

ADDRESS: Comments on these in-season orders may be sent to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150; or Richard B. Thompson, 206-526-6144.

SUPPLEMENTARY INFORMATION: The Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon (Treaty) was signed at Ottawa on January 28, 1985, and subsequently was given effect in the United States by the Pacific Salmon Treaty Act (Act) at 16 U.S.C. 3631 *et seq.*

Under authority of the Act, an emergency interim rule was promulgated at 50 CFR Part 371 (51 FR 23420, June 27, 1986) to provide a framework for implementation of certain regulations of the Commission and in-season orders of the Commission's Panel for sockeye and

pink salmon fisheries in the Fraser River Panel Area (U.S.). The emergency interim rule was effective from June 22, 1986, and remains in effect until modified, superseded, or rescinded. It applies to the Fraser River Area (U.S.) during the period each year when the Commission exercises jurisdiction over these fisheries.

The emergency interim rule closed the Fraser River Panel Area (U.S.) to sockeye and pink salmon fishing unless opened by Panel regulations or by in-season orders of the Secretary that give effect to Panel orders, unless such orders are determined not to be consistent with domestic legal obligations. During the fishing season, the Secretary may issue orders that establish fishing times and areas consistent with the annual Commission regime and in-season orders of the Panel. Such orders must be consistent with domestic legal obligations. The Secretary issues in-season orders through his delegate, the Northwest Regional Director of NMFS. Official notice of these in-season actions of the Secretary is provided by two telephone hotlines described at 50 CFR 371.21(b)(1) (51 CFR 23425, June 27, 1986). In-season orders of the Secretary must be published in the **Federal Register** as soon as practicable after they are issued under 50 CFR 371.21(b)(4) (51 FR 23425, June 27, 1986). Due to the frequency with which in-season orders are issued, publication of individual orders is impracticable. All the 1987 orders are therefore being published in this notice to avoid fragmentation.

The following in-season orders were adopted by the Panel and issued for U.S. fisheries by the Secretary during the 1987 fishing season. The times listed are local times, and the areas designated are Puget Sound Management and Catch Reporting Areas as defined in the Washington State Administrative Code at Chapter 220-22.

Order No. 1987-1: Issued 3:10 p.m., July 27, 1987

Treaty-Indian fishery: Areas 4B, 5, and 6C—Open to drift gill nets 12:00 noon Tuesday, July 28 to 12:00 noon Sunday, August 2. Areas 6, 7, and 7A—Remain closed to net fishing.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7, and 7A—Remain closed to net fishing.

Order No. 1987-2: Issued 12:50 p.m., July 31, 1987

Treaty-Indian fishery: Areas 4B, 5, and 6C—Remain open to drift gill net fishing. Areas 6, 7, and 7A—Open to net fishing 7:00 p.m. Tuesday, August 4 to 9:30 p.m. Thursday, August 6.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7, and 7A—Open to reef nets 5:00 a.m. to 9:30 p.m. Tuesday, August 4. Open to gill nets 7:00 p.m. Tuesday, August 4 to 9:30 a.m. Wednesday, August 5; open to purse seines 5:00 a.m. to 9:30 p.m. Wednesday, August 5.

Order No. 1987-3: Issued 12:30 p.m., August 7, 1987

Treaty-Indian fishery: Areas 4B, 5, and 6C—Remain open to drift gill nets. Areas 6, 7, and 7A—Open to net fishing 5:00 a.m. Tuesday, August 11 to 9:30 a.m. Thursday, August 13.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7, and 7A—Open to reef nets 5:00 a.m. to 9:30 p.m. Monday, August 10 and Tuesday, August 11; open to purse seines 5:00 a.m. to 9:30 p.m. Tuesday, August 11 and Wednesday, August 12; open to gill nets 7:00 p.m. Tuesday, August 11 to 9:30 a.m. Wednesday, August 12, and 7:00 p.m. Wednesday, August 12 to 9:30 a.m. Thursday, August 13.

Order No. 1987-4: Applied only to Canadian area fisheries

Order No. 1987-5: Issued 12:30 p.m., August 14, 1987

Treaty-Indian fishery: Areas 4B, 5, and 6C—Remain open to drift gill nets. Areas 6, 7, and 7A—Open to net fishing 6:00 p.m. Saturday, August 15, to 9:00 p.m. Tuesday, August 18.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7, and 7A—Open to reef nets 5:00 a.m. to 9:00 p.m. Saturday, August 15 and Sunday, August 16; open to gill nets 6:00 p.m. Sunday, August 16 to 9:00 a.m. Monday, August 17, and 6:00 p.m. Monday, August 17 to 9:00 a.m. Tuesday, August 18; open to purse seines 5:00 a.m. to 9:00 p.m. Monday, August 17 and Tuesday, August 18.

Order No. 1987-6: Applied only to Canadian area fisheries

Order No. 1987-7: Issued 3:10 p.m., August 17, 1987

Treaty-Indian fishery: Areas 6, 7, and 7A—Open to net fishing 9:00 p.m. Tuesday, August 18 to 9:00 p.m. Wednesday, August 19.

Order No. 1987-8: Issued 3:45 p.m., August 19, 1987

Treaty-Indian fishery: Areas 6, 7, and 7A—Open to net fishing 9:00 p.m. Wednesday, August 19 to 9:00 a.m. Saturday, August 22.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7, and 7A—Open to reef nets 5:00 a.m. to 9:00 p.m. Thursday, August 20; open to purse seines 5:00 a.m. to 9:00 p.m. Friday, August 21; open to gill nets 6:00 p.m. Friday, August 21 to 9:00 a.m. Saturday, August 22.

Order No. 1987-9: Applied only to Canadian fisheries

Order No. 1987-10: Issued 1:10 p.m., August 21, 1987

Treaty-Indian fishery: Areas 6, 7, and 7A—Extended for net fishing 9:00 a.m. Saturday, August 22 to 9:00 a.m. Monday, August 24.

Order No. 1987-11: Issued 4:45 p.m., August 22, 1987

Treaty-Indian fishery: Areas 6, 7, and 7A—Extended for net fishing 9:00 a.m. Monday, August 24 to 9:00 p.m. Tuesday, August 25.

All-citizen fishery: Areas 4B, 5, 6, and 6C—Remain closed to net fishing. Areas 7 and 7A—Open to reef nets 5:00 a.m. to 9:00 p.m. Sunday, August 23; open to gill nets 6:00 p.m. Sunday, August 23 to 9:00 a.m. Monday, August 24; open to purse seines 5:00 a.m. to 9:00 p.m. Monday, August 24.

Order No. 1987-12: Applied only to Canadian area fisheries

Order No. 1987-13: Issued 11:55 a.m., August 26, 1987

Treaty-Indian fishery: Areas 6, 7, and 7A—Open to net fishing 5:00 a.m. Thursday, August 27 to 9:00 a.m. Saturday, August 29.

All-citizen fishery: Areas 7 and 7A—Open to reef nets and purse seines 5:00 a.m. to 9:00 p.m. Thursday 27; open to gill nets 6:00 p.m. Thursday, August 27 to 9:00 a.m. Friday, August 28.

Order No. 1987-14: Issued 1:30 p.m., August 28, 1987

Treaty-Indian fishery: Areas 6, 7, and 7A—Extended for net fishing 9:00 a.m. Saturday, August 29 to 9:00 p.m. Tuesday, September 1.

All-citizen fishery: Areas 7 and 7A—Open to reef nets 5:00 a.m. to 9:00 p.m. Sunday, August 30; open to gill nets 6:00 p.m. Sunday, August 30 to 9:00 a.m. Monday, August 31; open to purse seines 5:00 a.m. to 9:00 p.m. Monday, August 31.

Order No. 1987-15: Issued 11:25 a.m., August 31, 1987

Treaty-Indian fishery: Area 4B, 5, and 6C—Closed to drift gill nets 12:00 noon Saturday, September 5. Areas 6, 7, and 7A—Extended for net fishing 9:00 p.m. Tuesday, September 1 to 9:00 a.m. Friday, September 4.

All-citizen fishery: Areas 7 and 7A—Open to purse seines 5:00 a.m. to 9:00 p.m. Wednesday, September 2; open to gill nets 6:00 p.m. Wednesday, September 2 to 9:00 a.m. Thursday, September 3; open to reef nets 5:00 a.m. to 9:00 p.m. Friday, September 4.

Order No. 1987-16: Issued 10:50 a.m., September 11, 1987

Treaty-Indian fishery: Areas 4B, 5, and 6C—Retain regulatory control until further notice. Remain closed to drift gill nets.

All-citizen fishery: Areas 4B, 5, 6, and 6C—Retain regulatory control until further notice. Remain closed to net fishing.

Order No. 1987-17: Issued 3:15 p.m., September 18, 1987

Treaty-Indian and all-citizen fisheries: Areas 4B, 5, and 6C—Regulatory control relinquished effective 12:01 a.m., Sunday, September 27. Remain closed to net fishing. Area 7A—Regulatory control extended to 12:01 a.m. Sunday, October 4 in those waters lying northerly and westerly of a straight line drawn from the low water range marker in Boundary Bay through the east tip of Point Roberts to the East Light in Saturna Island in the Province of British Columbia. These waters remain closed to net fishing.

Order No. 1987-18: Issued 2:45 p.m., October 1, 1987

Treaty-Indian and all-citizen fisheries: Area 7A—Regulatory control extended to 12:01 a.m. Sunday, October 11 in those waters lying northerly and westerly of a straight line drawn from Iwersen's Dock on Point Roberts to Georgina Point Light at the entrance to Active Pass in the Province of British Columbia. These waters remain closed to net fishing.

Other Matters

This action is taken under authority of 50 CFR 371.21 (51 FR 23420, June 27, 1986), and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Parts 371

Fisheries, Fishing, Treaty Indians.

Authority: 16 U.S.C. 3636(b).

Dated: December 23, 1987.

Richard H. Schaefer,

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

[FR Doc. 87-29795 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 70617-7148]

Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Notice of allowable surf clam fishing time.

SUMMARY: NOAA issues this notice to establish allowable fishing time at 36 hours for each quarter of 1988 for vessels harvesting surf clams in the Mid-Atlantic Area of the exclusive economic zone. This action will provide flexibility and predictability to operators in the use of fishing time during the period. The intended effect is to match fishing effort to the available quota for the area.

EFFECTIVE DATES: January 3 through December 31, 1988. Fishing trips must be scheduled with 10 days' advance written notice.

ADDRESS: Send request for fishing time to the Surf Clam Coordinator, NMFS, 2 State Fish Pier, Gloucester, MA 01930. If this publication appears too late to allow such notice for those wishing to schedule trips during the first week of the first quarter, trips for that week only can be scheduled by calling 617-281-3600, ext. 252.

FOR FURTHER INFORMATION CONTACT: Jack Terrill, 617-281-3600 ext. 252.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries contain at § 652.22(a)(3) a provision allowing the Regional Director to revise allowable fishing times to promote fishing for surf clams throughout the year with a minimum of changes. The Regional Director during the first quarter of 1987 decided, with the unanimous support of the Mid-Atlantic Fishery Management Council, to exercise his authority under § 652.22(a)(3) to allocate fishing time by quarter and allow each operator the maximum flexibility possible to schedule that time to best advantage. That program was continued for the remainder of 1987 with some modifications required to facilitate enforcement.

Based on an analysis of 1987 quarterly fishing effort, projected trends for the upcoming quarter, and comments from industry, the Regional Director has decided to allocate 36 hours of fishing time for each quarter during 1988. That time must be scheduled in six fishing trips of six hours' duration each, which may be taken on any six separate days during the normal daily and weekly fishing times established in § 652.22(a)(1), (2), and (3). The first quarter ends on March 31, 1988.

Adjustments to the number of trips, to insure the attainment of the quarterly quota, will be made in the quarter immediately following when more complete catch information is available. This procedure is intended to prevent disruption of processing schedules resulting from adjustments made mid-quarter.

Other Matters

This action is taken under 50 CFR Part 652 and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq*)

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: December 23, 1987.

Richard H. Schaefer,

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

[FR Doc. 87-29798 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 71153-7253]

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

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

ACTION: Final rule; technical amendment.

SUMMARY: NOAA announces a technical amendment to the regulations implementing the Fishery Management Plan for the Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California (FMP). The amendment is necessary to update obsolete language. It is intended to improve clarity and accuracy in the regulations.

EFFECTIVE DATE: This action will be effective on December 28, 1987. Comments will be accepted until January 12, 1988.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115-0070; or E. Charles Fullerton, Director, Southwest Region, NMFS, 300 S. Ferry Street, Terminal Island, CA

90731-7415. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same addresses.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director) at 206-526-6150; or E. Charles Fulleton (Regional Director) at 213-514-6196.

SUPPLEMENTARY INFORMATION: Framework regulations governing the ocean salmon fisheries at 50 CFR Part 661 were promulgated on October 31, 1984 (49 FR 43682). The regulations have been amended several times (50 FR 812, January 7, 1985; 50 FR 4977, February 5, 1985; 50 FR 42529, October 21, 1985; 52 FR 4146, February 10, 1987; 52 FR 34807, September 15, 1987). Various events have occurred since the original regulations were implemented which make some of the language obsolete or unclear. The cumulative effect of the many regulatory changes also have created imprecise or inconsistent wording.

The changes contained in this amendment do not introduce new information nor deviate from current agency procedure. Among the changes being made in the regulations are the following:

1. The term "fishery conservation zone" and its acronym "FCZ" are replaced by the term "exclusive economic zone" and its acronym "EEZ," pursuant to Presidential Proclamation Numbered 5030, dated March 10, 1983, and the Magnuson Fishery Conservation and Management Act at 16 U.S.C. 1802(6) and 1811, as amended by Pub. L. 99-659, Title I, sections 101(a), 112, 100 Stat. 3706, 3715 (2986).

2. Section 661.2(a) is revised to delete an obsolete reference and to substitute in its place a reference to the current international Pacific Salmon Commission established by the Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985.

3. The definition of *Council* is changed to show the new address of the Pacific Fishery Management Council.

4. The definition of *Regional Director* is revised to show zip-plus-four codes in the addresses.

5. An amendment to the regulations at 52 FR 4148 (February 10, 1987) resulted in a discussion of the Oregon Production Index (OPI) being deleted in the regulations. The next remaining section of the regulations refers to "OPI" without further explanation, by stating that "The allowable harvest in the area from Cape Falcon to Leadbetter Point will be established to address a blend of OPI and Washington state coho management considerations." The reference to "OPI" has been changed to "Oregon" in this sentence.

Classification

The Regional Director has determined that this rule is necessary to clarify and update the regulations for conservation and management of the ocean salmon fishery off Washington, Oregon, and California, and that it is consistent with the FMP, the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et. seq.*, and other applicable law.

Under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, the Council prepared an environmental impact statement (EIS) for the FMP, and a notice of availability was published. There will be no change in environmental impact from that determined in the EIS as a result of this rule.

The Assistant Administrator for Fisheries finds that because the changes made by this technical amendment are only minor corrections which will have no substantive effect and in which the public is not particularly interested, it is unnecessary to seek prior public comment under 5 U.S.C. 553(b)(B) and (c) and there is good cause not to delay the effective date of this rule for 30 days after 5 U.S.C. 553(d). However, as with other Department of Commerce rules, comments of the public are invited for 15 days after this notice is filed for public inspection with the Office of the Federal Register.

As no notice of proposed rulemaking is required, this rule is also exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 603 *et seq.*) and no Regulatory Flexibility Analysis has been prepared. However, the Council has previously prepared a regulatory impact review and regulatory flexibility analysis as a part of the FMP and its regulations. There will be no change in impacts from those previously determined as a result of this rule.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*).

This rule merely corrects minor errors; therefore it is not a major rule under Executive Order 12291 and its issuance is in compliance with the order. Because this rule will have no substantive effect on any person or fishing practice, there will be no change in the impacts analyzed in the regulatory impact reviews prepared for the implementing regulations.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: December 23, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

For reasons explained in the preamble, 50 CFR Part 661 is amended as follows:

PART 661—[AMENDED]

1. The authority citation for Part 661 continues to read as follows:

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

2. Section 661.1 is revised to read as follows:

§ 661.1 Purpose.

The purpose of this part is to provide for management of salmon and steelhead fisheries off the coasts of Washington, Oregon, and California in the exclusive economic zone (the EEZ, also known as the 3-to-200-mile zone) over which the United States exercises exclusive fishery management authority (i.e., the Pacific Fishery Management Council's Salmon Fishery Management Area) under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

3. In § 661.2, paragraph (a) is revised to read as follows:

§ 661.2 Relation to other laws.

(a) This part does not apply to fishing for pink and sockeye salmon between 48°N. latitude and the U.S.-Canada border during such times that the Pacific Salmon Commission exercises jurisdiction over such fishing under the Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985.

* * * * *

§ 661.3 [Amended]

4. In § 661.3, in the definition of *Council*, the address is revised to read "Metro Center, Suite 420, 2000 S.W. First Avenue, Portland, OR 97201-5344."; in the definition of *Fishery management area*, the term "Fishery Conservation Zone" and acronym "FCZ" are revised to read "Exclusive Economic Zone" and "EEZ," respectively; and in the definition of *"Regional Director,"* the zip codes for the Northwest Region and the Southwest Region are revised to read "98115-0070" and "90731-7415," respectively.

§ 661.21 [Amended]

5. In § 661.21(a), the first letter of the word "secretary" is capitalized.

Appendix II.B [Amended]

6. In Appendix II.B, paragraph (b) is revised by replacing the acronym "OPI" with the word "Oregon."

[FR Doc. 87-29800 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Parts 672 and 675

[Docket No. 70472-7197]

Groundfish of the Gulf of Alaska, Bering Sea and Aleutian Islands

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule that amends current regulations implementing the Fishery Management Plans for Groundfish of the Gulf of Alaska and for Groundfish of the Bering Sea and Aleutian Islands (FMPs). This rule modifies domestic reporting requirements with respect to State of Alaska fish tickets. This action is necessary to respond to an administrative problem identified by the NMFS Alaska Region. The intended effect of this action is improved precision and accuracy in accounting for commercial groundfish harvests off Alaska.

EFFECTIVE DATE: January 28, 1988.

ADDRESSES: Copies of documents supporting this rule may be obtained from Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

FOR FURTHER INFORMATION CONTACT: Jay J. C. Ginter (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: Domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) in the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands (BSAI) area are managed according to policies expressed in the FMPs. The FMPs were developed by the North Pacific Fishery Management Council (Council) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations governing foreign fisheries appearing at 50 CFR 611.92 and 611.93 and by regulations governing domestic fisheries appearing at 50 CFR Parts 672 and 675.

A description of the problems addressed by this action is given in the preamble to the proposed rule published in the **Federal Register** on June 16, 1987 (52 FR 22892). In summary, NOAA identified three problems in administering paragraphs (a) and (b) of §§ 672.5 and 675.5. These paragraphs implement provisions of the FMPs to collect groundfish catch information through State of Alaska fish tickets required under the Alaska Administrative Code (5 AAC 39.130). The identified problems and their resolution by this action are as follows:

1. Although the current regulations require fish tickets for every sale or delivery of groundfish at a "port of landing," that term is not defined in the regulations. This action eliminates that term, clarifies and simplifies the regulatory language, and implements identical requirements for the GOA and BSAI areas.

2. The current regulations for the BSAI area do not require fish tickets for groundfish landed in Alaska. This action includes a fish ticket requirement for these fish by providing a uniform Federal requirement for all groundfish taken in the GOA and BSAI areas.

3. The current regulations for the GOA and BSAI groundfish fisheries require fish tickets only for sales and deliveries of groundfish caught in the EEZ. Since enforcement agents cannot reliably document the origin of domestic catch, they cannot effectively enforce the Federal reporting requirements. This action changes the regulations to require fish tickets for groundfish caught in the EEZ and in the territorial sea adjacent to the GOA and BSAI management areas and in the internal waters of the State of Alaska by vessels which have groundfish permits issued under these parts. This rule will simplify enforcement by requiring fish tickets from all permitted vessels, regardless of where the fish are caught. This action is reasonable because most of the groundfish caught by Federally permitted vessels are caught in the EEZ.

This action does not add reporting burdens on fishermen because it imposes Federal requirements that are the same as existing State of Alaska reporting requirements under 5 AAC 39.130.

This action requires fish tickets from domestic fishermen who sell or deliver groundfish on land or at sea. Thus, all domestically harvested groundfish are accounted for by fish tickets except for groundfish delivered to foreign processors in the EEZ. The latter fish are accounted for by the U.S. observer on the foreign processor and the foreign fishing reporting program, therefore, these fish are specifically exempt from this action.

This rule includes the option that the vessel operator may elect to have the fish ticket submitted by the purchaser.

This final rule restates current requirements that vessels landing outside of Alaska will need to submit to the State of Alaska a copy of a document that is equivalent to State of Alaska fish tickets (§§ 672.5(a)(1) and 675.5(a)(1)). These reporting requirements are cleared under the OMB Control Number 0648-0016.

Finally, this rule deletes a fishing effort reporting requirement in the current GOA regulations under § 672.5 (a)(1)(ii). This action makes the regulations for the GOA and BSAI areas uniform regarding fishing effort reporting and eliminates a potential source of confusion in the reporting requirements for groundfish fisheries off Alaska.

This action is intended to clarify the reporting requirements and provide a more accurate and enforceable system of accounting for harvested groundfish.

NOAA expects no environmental and economic effects from implementing this rule. It will not change the status quo since it will not affect the amount of groundfish harvested, the species taken or the location of fishing activity. This rule will not affect the cost of fishing and will not impose any new reporting requirements. The only new effect of this rule will be the imposition by Federal regulation of existing State of Alaska fish ticket requirements. Hence, no additional paperwork burden is imposed on fishermen.

Public Comments

No public comments were received in response to the proposed rule.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary for the conservation and management of the groundfish fisheries in the Gulf of Alaska, the Bering Sea and the Aleutian Islands area, and that the rule is consistent with the Magnuson Act. In addition, based on the above discussion, the Administrator of NOAA has determined that this rule (1) is not a major Federal action requiring preparation of an environmental assessment, (2) is not a major rule requiring a regulatory impact analysis under Executive Order 12291, (3) will not have significant effects on small entities under the Regulatory Flexibility Act, and (4) contains no additional collection of information requirement subject to the Paperwork Reduction Act. NOAA has determined that this rule will be

implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. This determination was submitted for review to the responsible State agency under section 307 of the Coastal Zone Management Act. The State did not respond within 45 days; therefore, the State's agreement is presumed.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: December 23, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Parts 672 and 675 are amended as follows:

PART 672—[AMENDED]

1. The authority citation for 50 CFR Part 672 continues to read as follows:

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

2. In § 672.5, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 672.5 Reporting requirements.

(a) * * *

(1) The operator of any fishing vessel (including any catcher/processor vessel) to which a permit has been issued under § 672.4 of this Part, that catches groundfish in any of the Gulf of Alaska regulatory areas, the territorial sea adjacent to any regulatory area, or internal waters of the State of Alaska, shall be responsible for the submission to ADF&G of an accurately completed State of Alaska fish ticket or an equivalent document containing all of the information required on an Alaska fish ticket. Fish tickets are not required for groundfish sold or delivered to a foreign processing vessel which has a permit under § 611.3 of this Title.

(i) When to submit fish tickets.

(A) Sales or deliveries to shore. Except as provided by paragraph (a)(1)(ii) of this section, the operator of any fishing vessel who sells or delivers his catch of groundfish to shore must submit the fish ticket required under paragraph (a)(1) of this section within one week after such fish are sold or delivered.

(B) Sales or deliveries to vessels. Except as provided by paragraph (a)(1)(ii) of this section, the operator of any fishing vessel who sells or delivers his catch of groundfish to another vessel must submit the fish ticket required under (a)(1) of this section within one week after he returns to port.

(ii) At the election of the fishing vessel operator who catches groundfish, fish tickets may be prepared, and submitted under paragraph (a)(1)(i)(A) of this section to ADF&G by the shore-based purchaser within one week after such fish are received by the purchaser, or, if submitted under paragraph (a)(1)(i)(B) of this section, to ADF&G by the vessel-based purchaser within one week after such purchaser returns to shore. For purposes of this paragraph, a "purchaser" is any person who receives from a fishing vessel regulated under this Part, groundfish caught in any area or location as defined at § 672.2 of this Part, the territorial sea, or internal waters of the State of Alaska.

(2) Address. Send these documents to the Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, P.O. Box 3-2000, Juneau, Alaska 99802.

* * * * *

PART 675—[AMENDED]

3. The authority citation for 50 CFR Part 675 continues to read as follows:

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

4. In § 675.5, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 675.5 Reporting requirements.

(a) * * *

(1) The operator of any fishing vessel (including any catcher/processor vessel) to which a permit has been issued under § 675.4 of this part, that catches groundfish in the Bering Sea and Aleutian Islands management area or either subarea, the territorial sea adjacent to either subarea, or internal waters of the State of Alaska, will be responsible for the submission to ADF&G of an accurately completed State of Alaska fish ticket or an equivalent document containing all of the information required on an Alaska fish ticket. Fish tickets are not required for groundfish sold or delivered to a foreign processing vessel which has a permit under § 611.3 of this title.

(i) When to submit fish tickets.

(A) Sales or deliveries to shore. Except as provided by paragraph (a)(1)(ii) of this section, the operator of any fishing vessel who sells or delivers his catch of groundfish to shore must submit the fish ticket required under paragraph (a)(1) of this section within one week after such fish are sold or delivered.

(B) Sales or deliveries to vessels. Except as provided by paragraph (a)(1)(ii) of this section, the operator of any fishing vessel who sells or delivers his catch of groundfish to another vessel must submit the fish ticket required under paragraph (a)(1) of this section within one week after he returns to port.

(ii) At the election of the fishing vessel operator who catches groundfish, fish tickets may be prepared, and submitted under paragraph (a)(1)(i)(A) of this section to ADF&G by the shore-based purchaser within one week after such fish are received by the purchaser, or, if submitted under paragraph (a)(1)(i)(B) of this section, to ADF&G by the vessel-based purchaser within one week after such purchaser returns to shore. For purposes of this paragraph, a "purchaser" is any person who receives from a fishing vessel regulated under this Part, groundfish caught in either subarea of the Bering Sea and Aleutian Islands management area, the territorial sea, or internal waters of the State of Alaska.

(2) Address. Send these documents to the Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, P.O. Box 3-2000, Juneau, Alaska 99802.

* * * * *

[FR Doc. 87-29799 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 249
Tuesday, December 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 302 and 333

Procedures for Selecting Candidates for Appointment

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: To improve the procedures used by agencies in selecting candidates for appointments in the excepted service and for temporary and term appointments outside registers in the competitive service, the Office of Personnel Management (OPM) proposes to revise its regulations. The proposed regulations would permit candidates for either type of appointment to be referred in one of two ways: in preference order without ranking; or under ranking and referral procedures comparable to those used in competitive examinations. This would give agencies greater flexibility in recognizing qualitative differences among candidates for jobs that require specialized skills and training and would simplify referral procedures when jobs have minimal skill requirements or when all applicants have substantially equal qualifications. The proposed regulations would also make editorial changes to clarify the applicability of procedural requirements and would permit agencies to consider current employees for excepted appointments on the same basis as former employees. Currently, an agency may consider its former employees for excepted appointments before it considers outside candidates, but when considering current employees, must treat such applicants as though they were outside candidates. The proposed regulations would permit movement of current employees to positions where their skills could be better used, even when an agency was not adding to its workforce.

DATE: Comments must be received on or before February 29, 1988.

ADDRESS: Send or deliver written comments to Curtis J. Smith, Associate Director for Career Entry, Office of Personnel Management, Room 6F08, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632-6817.

SUPPLEMENTARY INFORMATION:

I. Ranking and referral procedures.

Both Parts 302 and 333 implement statutory requirements for veterans preference in appointments. While OPM's regulations fully implement the letter and the spirit of the law giving preference in civilian employment to eligible veterans who have served in defense of their country, the specific procedures for applying preference currently prescribed in Parts 302 and 333 reflect outdated assumptions about the types of jobs likely to be filled by excepted appointments and appointments outside registers.

Part 302, which covers appointments in the excepted service, generally requires agencies to use the same procedures as are applied in competitive examinations: that is, to rate eligible candidates on a numerical scale from 70 to 100, to assign appropriate extra points for veterans preference, and to refer candidates for selection consideration under a rule of three. Exceptions to the procedural requirements are authorized when there are so few candidates that all who qualify will be offered employment; when there are so many candidates that only those in the group most likely to be referred (e.g., compensably disabled veterans) need to receive final ratings; and when OPM approves use of special procedures, such as adjective category ranking, for particular positions. Exceptions to the procedural requirements have been approved for several types of positions, including those involving strictly occasional or as-needed employment, those that must be filled on an emergency basis, and those excepted from the competitive service on account of their confidential or policy-determining character. For many other excepted service positions, the pool of candidates is so small that no ranking is required.

The current regulations were based on the assumption that positions subject to the ranking and referral requirements would have specific knowledge and skill requirements that can and should be recognized in the referral process. For many positions, that is true. However, an increasing number of excepted authorities cover part-time, seasonal, or other positions for which knowledges and skills are usually learned on the job. Agencies make appointments to these positions at entry levels, for which qualification requirements are often minimal and candidates plentiful. The requirement to assign numerical scores and make arbitrary distinctions among essentially equal candidates for these jobs creates an unnecessary paperwork burden.

By contrast, Part 333, which covers temporary and term appointments made outside registers, makes no provision for comparative ranking or a rule-of-three, but instead requires that all candidates be referred in the order of their veterans preference. For many years, these provisions were adequate. Appointments outside the register were typically authorized either for low-level, short term jobs with minimal skill requirements, or for jobs with such specific skill requirements that few candidates would qualify. In either case, comparative ranking would be academic. Now, however, appointments outside the register are authorized for positions up to grade GS-12 in situations that may last as long as 4 years. Those positions often have specialized qualification requirements that should be recognized in the referral process.

In sum, both Parts 302 and 333 now cover positions that would be filled more efficiently through the use of different procedures. Because both parts afford eligible veterans as much preference as they would receive in competitive examinations, using either set of procedures for any of the positions would comply with veterans preference law. Therefore, these proposed regulations would provide unranked referral in preference order as an alternative method of making appointments under Part 302, and would provide numerical ranking and the rule-of-three as an alternative for appointments outside registers.

II. Consideration of current employees for excepted appointments.

Although Part 302 authorizes agencies to establish procedures for promotion or reassignment of excepted employees, the agencies' ability to use that authority

is very limited. Because most excepted appointing authorities cover only specified positions, excepted employees can be promoted or reassigned only among those positions. Movement to any other position is technically a new appointment and must be processed as such. Part 302 allows agencies to consider reemployment candidates (including both their own former employees and preference eligibles formerly employed by any agency) ahead of candidates for new appointments. However, the part does not permit current employees to be considered for new appointments ahead of outside candidates. This means that an agency having excepted positions for which current employees serving under other appointing authorities are well qualified cannot appoint such employees to those positions unless it either considers outside candidates or separates the employees and reappoints them from the reemployment list.

Because an agency's desire to limit consideration to current employees often reflects budget or ceiling constraints and because the employees' familiarity with the agency's work would give them a competitive edge in any case, the current provisions are not likely to create significant employment opportunities for outside candidates. They are more likely to generate unproductive separation and reappointment paperwork. Therefore, the proposed regulations would permit agencies to enter both current and former employees on their reemployment lists. The regulations would not reduce the procedural protections afforded competitive service employees who are selected for excepted appointments. Those employees would still be informed about giving up their competitive status by accepting excepted appointments and would be asked to sign a statement that they understand and voluntarily accept the conditions of excepted appointment.

III. Coverage of 5 CFR Part 302

OPM's authority to issue regulations governing appointments in the excepted service extends only to excepted positions subject to the provisions of title 5 of the United States Code unless the provisions of another title require use of veterans preference procedures parallel to title 5 of the U.S. Code. (Currently, only title 39 of the U.S. Code, covering positions in the United States Postal Service, contains such a requirement.) Responsibility for administering veterans preference and other legal requirements in personnel systems established outside of title 5 of the U.S. Code rests with the employing agencies. In accordance with the Home Rule Act of 1980, the personnel system of the government of the District of Columbia has also been removed from OPM's control for the purpose of these regulations. However, the language of Part 302 states that the regulations apply to all excepted positions in the executive branch and the government of the District of Columbia. To avoid confusion, the proposed regulations are reworded to reflect their coverage more accurately.

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 affects only the procedures used to appoint certain Federal employees.

List of Subjects in 5 CFR Parts 302 and 333

Administrative practice and procedures, Government employees.

U.S. Office of Personnel Management

Constance Horner,

Director.

Accordingly, OPM proposes to amend 5 CFR Parts 302 and 333 as follows:

PART 302—EMPLOYMENT IN THE EXCEPTED SERVICE

1. The authority citation for Part 302 is revised as set forth below; and, the authorities following individual sections within the part are removed:

Authority: 5 U.S.C. 1302, 3301, 3302, 8151, E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); § 302.105 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); § 302.501 also issued under 5 U.S.C. 7701 et seq.

2. In § 302.101, paragraphs (a) and (b) are revised to read as follows:

§ 302.101 Positions covered by regulations.

(a) *Positions covered.* With respect to the application of veteran preference, this part applies to each position in the executive branch of the Federal Government that is not in the competitive service *and* that is subject to the provisions of title 5, United States Code, or subject to a statutory requirement to follow the veteran preference provisions of title 5. With respect to restoration rights that are due to compensable injury and appeals therefrom, this part applies to those positions covered by 5 U.S.C. 8101(1) that are not in the competitive service.

(b) *Positions not covered.* This part does not apply to a position or appointment that is required by the Congress to be confirmed by, or made with the advice and consent of, the Senate.

* * * * *

3. Section 302.102 is amended to add the following language to the end of paragraph (b) and add new paragraphs (b) (1) and (2) to read as follows:

* * * * *

(b) * * * When an employee serving under a nontemporary appointment in the competitive service is selected for an excepted apointment or for noncareer executive assignment, the agency must—

(1) Inform the employee that, because the position is in the excepted service, it may not be filled by a competitive appointment, and that acceptance of the proposed appointment will take him/her out of the competitive service while he/she occupies the position; and

(2) Obtain from the employee a written statement that he/she understands he/she is leaving the competitive service voluntarily to accept an appointment in the excepted service.

* * * * *

4. Section 302.201 is revised to read as follows:

§ 302.201 Persons entitled to veteran preference.

In actions subject to this part, each agency shall grant veteran preference as follows:

(a) When numerical scores are used in the evaluation and referral, the agency shall grant 5 additional points to preference eligible under section 2108(3) (A) and (B) of title 5, United States Code, and 10 additional points to preference eligibles under section 2108(3) (C) through (G) of that title.

(b) When eligible candidates are referred without ranking, the agency shall note preference as "CP" for preference eligibles under section 2108(3) (C) of title 5, United States Code, and as "TP" for all other preference eligibles under that title.

5. In § 302.302, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively; paragraph (a) is redesignated as paragraph (b) and is revised as set forth below; and a new paragraph (a) is added to read as follows:

§ 302.302 Examination of applicants.

(a) *Eligibility.* An evaluation of the qualifications of applicants for a position covered by this part may be conducted at any time before an appointment is made. The evaluation may involve only determination of eligibility or ineligibility or may include qualitative rating of candidates. If the evaluation involves only basic eligibility, numerical scores will not be assigned and eligible candidates will be referred in accordance with the procedures described in paragraph (e) of § 302.304. If qualitative ranking is desired, numerical scores may be assigned in accordance with paragraph (b) of this section.

(b) *Rating.* Numerical scores will be assigned on a scale of 100. Each applicant rated 70 or more will be eligible for appointment. Candidates scoring 70 or more will receive additional points for veteran preference as provided in § 302.201. Numerical ratings are not required when all qualified applicants will be offered immediate appointment. When there is an excessive number of applicants: numerical rating are required only for a sufficient number of the highest qualified applicants to meet the anticipated needs of the agency within a reasonable period of time; and the agency shall adopt procedures to insure the consideration of all preference eligibles in the order in which they would have been considered if all applicants had been assigned numerical ratings. An agency shall furnish a notice of the rating assigned to an applicant on his/her request.

* * * * *

6. In § 302.303, paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 302.303 Maintenance of employment lists.

(a) *Establishment.* An agency shall enter the names of all applicants rated eligible under § 302.202 on either the appropriate reemployment list or the appropriate regular employment list, in the following order:

(1) *When candidates have been rated only for basic eligibility under § 302.202(a):* (i) Preference eligibles having a compensable service-connected disability of 10 percent or more (designated as "CP") unless the list will be used to fill professional positions at the GS-9 level and above, or equivalent;

(ii) All other preference eligibles; and

(iii) Qualified candidates not eligible for veteran preference.

(2) *When candidates have been assigned numerical scores under § 302.202(b):* (i) Preference eligibles having a compensable service-connected disability of 10 percent or more, in the order of their augmented ratings, unless the list will be used to fill professional positions at the GS-9 level and above, or equivalent;

(ii) All other qualified candidates in the order of their augmented ratings. At each score, qualified candidates eligible for 10-point preference will be entered ahead of those eligible for 5-point preference, and those eligible for 5-point preference will be entered ahead of those not eligible for veteran preference.

(b) *Reemployment list.* The reemployment list may include the names of current employees of the agency and of former employees of the agency who are to be considered for future employment. The list must, however, in all cases, include the following:

* * * * *

7. In § 302.304, paragraphs (a) and (d) are revised as set forth below and a new paragraph (e) is added to read as follows:

§ 302.304 Arrangement of ratings.

(a) *Order of consideration.* Except as provided in paragraphs (d) and (e) of this section, an agency shall consider applicants who have been assigned eligible ratings for a given position in either Order A or Order B, as set forth in paragraphs (b) and (c) of this section.

* * * * *

(d) *Professional order.* An agency shall consider applicants who have been assigned eligible ratings for professional and scientific positions at the GS-9 level and above, or equivalent, in the following order:

(1) *Applicants on the agency's reemployment list.* If numerical scores have been assigned, the applicants will be considered in the order of their augmented scores. If numerical scores have not been assigned, all preference eligibles will be considered together, regardless of the type of preference, followed by all other reemployment candidates.

(2) *Applicants on the regular employment list.* If numerical scores have been assigned, the applicants will be considered in the order of their augmented scores. If numerical scores have not been assigned, all preference eligibles will be considered together, regardless of the type of preference, followed by all other candidates.

(e) *Unranked order.* When numerical scores are not assigned, the agency may consider applicants who have received eligible ratings for positions not covered by paragraph (d) of this section in either of the following orders:

(1) *By preference status.* Under this method, preference eligibles having a compensable service-connected disability of 10 percent or more are considered first, followed by other preference eligibles and, last, by non-preference eligibles. Within each preference category, applicants from the reemployment list will be placed ahead of applicants from the regular employment list.

(2) *By reemployment/regular list status.* Under this method, all applicants on the reemployment list are considered before applicants on the regular employment list. On each list, preference eligibles having a compensable service-connected disability of 10 percent or more are considered first, followed by other preference eligibles and, last, by non-preference eligibles.

8. In § 302.401, the introductory text of paragraph (a) is revised to read as follows:

§ 302.401 Selection and appointment.

(a) *Selection.* When making an appointment from a reemployment or regular list on which candidates have not received numerical scores, an agency must make its selection from the highest available preference category, as long as at least three candidates remain in that group. When fewer than three candidates remain in that group. When fewer than three candidates remain in the highest category, consideration may be expanded to include the next category. When making an appointment from a list on which candidates have received numerical scores, the agency must make its selection for each vacancy from not more than the highest three names available for appointment in the order provided in § 302.304. Under either method, an agency is not required to—

* * * * *

PART 333—RECRUITMENT AND SELECTION FOR TEMPORARY AND TERM APPOINTMENTS OUTSIDE THE REGISTER

9. The authority citation for Part 333 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

10. The following sentence is added to the end of § 333.101:

§ 333.101 Standards for temporary and term appointments outside the register.

***Candidates found to be qualified shall be assigned either an eligible

rating or a numerical score of at least 70 on a scale of 100.

11. Section 333.102 is redesignated as § 333.201 and revised as set forth below and a Subpart B heading is added; and a new § 333.102 is added to read as follows:

§ 333.102 Preference in temporary and term appointments outside the register.

In actions subject to this part, each agency shall grant veteran preference as follows:

(a) When numerical scores are used in evaluation and referral, the agency shall grant 5 additional points to preference eligibles under section 2108(3) (A) and (B) of title 5, United States Code, and 10 additional points to preference eligibles under section 2108(3) (C) through (G) of that title.

(b) When eligible candidates are referred without ranking, the agency shall note preference as "CP" for preference eligibles under section 2108(3)(C) of title 5, United States Code, and as "TP" for all other preference eligibles under that title.

Subpart B—Consideration for Appointment

§ 333.201 Making appointments from an unranked list.

In making temporary and term appointments from a list of eligible candidates who have not received numerical scores, an agency shall give preference to preference eligibles as follows:

(a) for professional and scientific positions at the GS–9 level and above, or equivalent, preference shall be given to preference eligibles without regard to the type of preference.

(b) For other positions, preference shall be given first to preference eligibles with compensable service-connected disability of 10 percent or more, and second to other preference eligibles.

(c) Except as provided in paragraphs (b) and (c) of § 333.202, qualified candidates not eligible for veteran preference may be selected only when no qualified veteran preference eligibles are available.

12. A new § 333.202 is added to Subpart B to read as follows:

§ 333.202 Making appointments from a numerically ranked list.

(a) *Establishing the list.* An agency shall enter the names of all applicants having an eligible numerical score on the employment list in the following order:

(1) Preference eligibles having a compensable service-connected disability of 10 percent or more in the order of their augmented ratings, unless the list will be used to fill professional positions at the GS–9 level and above, or equivalent;

(2) All other qualified candidates in the order of their augmented ratings. At each score, qualified candidates eligible for 10-point preference will be entered ahead of those eligible for 5-point preference, and those eligible for 5-point preference will be entered ahead of those not eligible for veteran preference.

(b) *Selection.* When making an appointment from a list on which candidates have received numerical scores, the agency must make its selection for each vacancy from not more than the highest three names available for appointment in the order provided in paragraph (a) of this section, except that an agency is not required to—

(1) Consider an applicant who has previously been considered three times by the same appointing officer for positions at the same grade level and for the same line of work;

(2) Consider a preference eligible whose eligibility for further consideration for the position has been discontinued as provided in paragraph (c) of this section.

(c) *Passing over a preference eligible.* When an agency making an appointment passes over the name of a preference eligible who is entitled to prior consideration under paragraph (a) of this section and selects a nonpreference eligible, the agency must record its reasons for so doing, and must furnish a copy of those reasons to the preference eligible or to his or her representative on request. An agency may discontinue consideration of a preference eligible for a position if, on three occasions, the agency has considered the candidate for the position and has passed over his or her name and recorded its reasons for so doing.

[FR Doc. 87–29684 Filed 12–28–87; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 87-176]

7 CFR Part 319

Importation of Apples, Peaches, and Citrus From Sonora

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Fruits and Vegetables regulations by specifying definite areas in Sonora, Mexico, which the Administrator of the Animal and Plant Health Inspection Service has determined to be free from certain injurious insect pests and from which applies, grapefruit, oranges, peaches, and tangerines may be imported without treatment for these pests. This action would allow the importation in accordance with the regulations of these fruits from the specified definite areas.

DATE: Consideration will be given only to comments postmarked or received on or before January 28, 1988.

ADDRESS: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 87–176. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Senior Operations Officer, Port Operations Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 666, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8248.

SUPPLEMENTARY INFORMATION: The Fruits and Vegetables regulations in 7 CFR 319.56 *et seq.* (referred to below as the regulations) impose restrictions on the importation of fruits and vegetables in order to prevent the introduction and dissemination of injurious insects, including fruit flies, that are new to or not widely distributed within and throughout the United States.

In a final rule published in the **Federal Register** on August 7, 1987 (52 FR 29369–29371, Docket Number 87–020), we amended § 319.56–2 by, among other things, adding new paragraphs (e)(4) and (f), which provided requirements for importation of certain fruits and vegetables based on their origin in a definite area or district. The definite area or district must meet certain criteria designated to ensure that it is free from all or certain injurious insects, and certain other criteria. Section 319.56–2(e)(4) allows importation of a fruit or vegetable that:

(4) is imported from a definite area or district of the country of origin that is free from certain injurious insects that attack the fruit or vegetable, its importation can be

authorized without risk, and the criteria of paragraph (f) of this section are met with regard to those certain insects, provided that all other injurious insects that attack the fruit or vegetable in the area or district of the country of origin have been eliminated from the fruit or vegetable by treatment or any other procedures that may be prescribed by the Deputy Administrator.

Section 319.56–2(f) contains the criteria by which the Administrator [1] designates definite areas or districts. These criteria are as follows:

(f) Before the Deputy Administrator may authorize importation of a fruit or vegetable under § 319.56–2(e) (3) or (4), he or she must determine that the following criteria have been met: (1) Within the past 12 months, the plant protection service of the country of origin has established the absence of infestations of injurious insects known to attack fruits or vegetables in the definite area or district based on surveys performed in accordance with requirements approved by the Deputy Administrator as adequate to detect these infestations; (2) the country of origin has adopted and is enforcing requirements to prevent the introduction of injurious insects known to attack fruits and vegetables into the definite area or district of the country of origin that are deemed by the Deputy Administrator to be at least equivalent to those requirements imposed under this chapter to prevent the introduction into the United States and interstate spread of injurious insects; and (3) the plant protection service of the country of origin has submitted to the Deputy Administrator written detailed procedures for the conduct of surveys and the enforcement of requirements under this paragraph to prevent the introduction of injurious insects. When used to authorize importation under § 319.56–2(e)(3), the criteria must be applied to all injurious insects that attack the fruit or vegetable; when used to authorize importation under § 319.56–2(e)(4), the criteria must be applied to those particular injurious insects from which the area or district is to be considered free.

The Administrator of the Animal and Plant Health Inspection Service (APHIS) has determined that certain areas in the state of Sonora, Mexico, meet all the criteria contained in §§ 319.56–2(e)(4) and 319.56–2(f) for importation of fruit from definite areas and districts free from certain injurious insects, specifically five types of fruit flies (*Ceratitis capitata, Anastrepha ludens, A. serpentina, A. obliqua*, and *A. fraterculus*), which are known to occur in Mexico and attack apples, grapefruit, oranges, peaches, and/or tangerines.

The criteria of § 319.56–2(e)(4) are met in that the definite areas are free from the five listed fruit flies, the criteria of § 319.56–2(f) are met with regard to those fruit flies (as discussed below), and articles imported from the definite areas would still be subject to all treatments or other procedures required by 7 CFR Part 319 for pests other than the five listed fruit flies. Under these circumstances, the Administrator has determined that apples, grapefruit, oranges, peaches, and tangerines may be imported from the definite areas without risk.

The criteria contained in § 319.56–2(f) are met as described below.

The definite areas are the municipalities of Altar, Atil, Caborca, Carbo, Empalme, Guaymas, Hermosillo, Pitiquito, Puerto Penasco, and San Miguel. Each municipality forms one definite area.

For the past 12 months, the Mexican Ministry of Agriculture and Water has performed trapping surveys that showed these municipalities to be free from the listed fruit flies. The Administrator has determined that the methods employed in these surveys are adequate to detect infestations of these insects.

The Mexican government has adopted and is enforcing requirements to prevent the introduction of the listed fruit flies into any of the municipalities that form the definite areas. The Administrator has determined that these requirements are at least equivalent to the requirements imposed by 7 CFR Chapter III to prevent the introduction and dissemination of the listed fruit flies into and within the United States.

The Mexican Ministry of Agriculture and Water Resources has submitted to the Administrator detailed procedures for the conduct of pest surveys in these municipalities and the enforcement of requirements to exclude the listed fruit flies from these municipalities. The Administrator has reviewed these procedures and has determined that they meet the requirements of the regulations.

Based on the procedures submitted by the Mexican Ministry of Agriculture and Water Resources, we believe that apples, grapefruit, oranges, peaches, and tangerines may be imported from the municipalities proposed as definite areas without risk and without treatment for the five listed fruit flies.

Therefore, we propose to add a new paragraph (h) to § 319.56–2, listing the areas in Sonora, Mexico, that meet the requirements for definite areas. The paragraph would read as follows:

(h) The Administrator has determined that the following municipalities in Sonora, Mexico, meet the criteria of § 319.56–2 (e) and (f) with regard to the insect pests *Ceratitis capitata, Anastrepha ludens, A. serpentina, A. obliqua*, and *A. fraterculus*: Altar; Atil; Caborca; Carbo, Empalme; Guaymas; Hermosillo; Pitiquito; Puerto Penasco; and San Miguel. Apples, grapefruit, oranges, peaches, and tangerines may be imported from these areas without treatment for the pests named in this paragraph.

We also propose to add a new paragraph (g) to § 319.56–2 that would require that each box of fruit exported to the United States under §§ 319.56–2 (e)(4) and (f) must be clearly labelled with: (1) The name of the orchard or grove of origin, or the name of the grower, and (2) the name of the municipality and state in which it was produced, and (3) the type and amount of fruit it contains. This provision would help ensure that only fruit from approved definite areas would be allowed importation under §§ 319.56–2 (e)(4) and (f).

Executive Order 12291 and Regulatory Flexibility Act

We are proposing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The primary effect of adoption of this proposal would be to allow the importation of apples, grapefruit, oranges, peaches, and tangerines, from the listed definite areas without treatment for the five listed fruit flies. This would increase imports of these articles, by lowering the import costs through eliminating the cost of treatments, and would result in increased competition for United States growers of these articles. Adoption of this proposal could have economic effects on importers of these articles, on fumigators at the Mexican border, and on dometic growers, distributors, and retailers of these fruits.

The scale of these effects should be very small. Less than 1% of the citrus, apples, and peaches consumed in the United States comes from Sonora. While the amount imported should increase slightly if this proposal is adopted, Sonora is not a major production area for these articles and cannot supply

[1] Due to changes in agency operating procedures, we are proposing to change "Deputy Administrator" to "Administrator" throughout § 319.56–2.

much more than is currently being imported; we therefore believe that Sonora will continue to supply much less than 1% of the United States citrus, apple, and peach consumption.

Furthermore, imported Sonoran fruit may be marketed in all parts of the United States, and the effects of this importation would be distributed over hundreds of thousands of small fruit growers, distributors, and retailers. With such a dispersed market, and such a large number of small entities involved, we do not expect a significant economic impact on a substantial number of small entities.

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), we have submitted the information collection provisions in this rule to the Office of Management and Budget (OMB) for approval. You may send written comments on these provisions to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Executive Order 12372

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

List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports, Plant diseases, Plant pests, Plants Agriculture), Quarantine, Transportation.

PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, 7 CFR Part 319 would be amended as follows:

1. The authority citation for 7 CFR Part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 319.56–2, paragraph (g) would be redesignated as (i).

3. In § 319.56–2, new paragraphs (g) and (h) would be added to read as follows:

§ 319.56–2 Restrictions on entry of fruits and vegetables.

* * * * *

(g) Each box of fruit or vegetables imported into the United States in accordance with §§ 319.56–2(e) (3) or (4) and § 319.56–2(f) must be clearly labelled with:

(1) The name of the orchard or grove of origin, or the name of the grower, and

(2) The name of the municipality and state in which it was produced, and

(3) The type and amount of fruit it contains.

(h) The Administrator has determined that the following municipalities in Sonora, Mexico, meet the criteria of § 319.56–2 (e) and (f) with regard to the insect pests *Ceratitis capitata, Anastrepha ludens, A. serpentina, A. obliqua,* and *A. fraterculus*: Altar; Atil; Caborca; Carbo; Empalme; Guaymas; Hermosillo; Pitiquito; Puerto Penasco, and San Miguel. Apples, grapefruit, oranges, peaches, and tangerines may be imported from these areas without treatment for the pests named in this paragraph.

* * * * *

Done at Washington, DC, this 23rd day of December 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87–29784 Filed 12–28–87; 8:45 am]

BILLING CODE 3410-34-M

Commodity Credit Corporation

7 CFR Part 1403

Interest on Delinquent Debts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (CCC) proposes to revise the regulation for the assessment of late payment charges on delinquent debts owed to CCC from 30-day periods to assessment on a daily basis and to revise the definition of "late payment charge" to be synonymous with "late payment interest" and "claim interest". The authority for the regulation is the Commodity Credit Corporation Charter Act.

DATES: Comments must be received on or before January 28, 1988 to be assured consideration.

ADDRESSES: Comments should be addressed to the Director, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC, 20013. All comments submitted in response to this proposed rule will be available for public inspection in Room 6094, South Agriculture Building, 14th and Independence Avenue, SW, Washington, DC, between 8:30 am and 4:00 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Andree DuVarney, Claims Specialist, (202) 447–4070.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in conformance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major" because this rule will not result in: (1) Annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or in the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under Departmental Regulation 1512–1. No sunset review date has been set for this regulation because review is ongoing.

This action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

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

This activity is not subject to the provisions of Executive Order 12372 which requires intergovermental 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).

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since this rule will not increase the federal paperwork burden for individuals, small businesses or other persons, and CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The titles and numbers of the Federal Domestic Assistance Programs to which this proposed rule applies are: Commodity Loans and Purchases 10.051; Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Storage Facilities and Equipment loans, 10.056; Wheat Production Stabilization, 10.058; Rice Production Stabilization, 10.065; Grain Reserve Program, 10.067; as listed in the Catalog of Federal Domestic Assistance.

If a debt is repaid early in a 30-day period late payment charge is nonetheless assessed for the portion of the period during which no debt was owed. Therefore, there is no incentive for a debtor to pay a debt early in a 30-day period. The same amount of interest will be due whether the payment is made at the beginning of a 30-day period or at the end. The proposed revision to the regulation permits late payment charges to be assessed daily rather than for each 30-day period. This revision will more closely align the calculation of late payment charge with the calculation of interest charged for other USDA programs, will provide an incentive to debtors to repay debts earlier and will spread the CCC workload throughout the month.

The proposal to revise the regulation to define "late payment charge" to be synonymous with "late payment interest" and "claim interest" is made to clarify the meaning of the terms to the public.

The Attorney General and Comptroller General have jointly promulgated the Federal Claims Collection Standards (FCCS) in 4 CFR Parts 101 through 105 as mandated by the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711-3719). CCC is generally exempt from the provisions of FCCS, since CCC has the authority under Section 4(k) of the CCC Charter Act (15 U.S.C. 714b(k)) to make final and conclusive settlement and adjustment of all its claims. However, the Board of Directors, CCC, has administratively determined the FCCS will be applicable to claims by CCC (CCC Claims Policy Docket CZ161a, Revision 4).

The FCCS requires that interest be charged on delinquent debts. In accordance with the FCCS, CCC issued regulations at 7 CFR Part 1403, to provide at 7 CFR 1403.3(c) that the late payment charge will be applied to delinquent debts for each 30-day period and that the full amount of the late payment charge will also be applicable to periods of less than 30 days. Since the effect of the regulation is to bunch payments at the end of the month, CCC has determined to charge late payment charge on a daily basis to provides some incentive to spread payments throughout the month.

Accordingly, the regulations at 7 CFR Part 1403 are amended as follows:

PART 1403—[AMENDED]

1. The authorrity citation for Part 1403 continues to read as follows:

Authority: Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 407, 63 Stat. 1055, as amended, 7 U.S.C. 1427.

2. 7 CFR sec. 1403.2 is amended by revising paragraph (a) to read as follows:

§ 1403.2 Definitions.

(a) "Late payment charge", "late payment interest", and "claim interest" are deemed synonymous and are used interchangeably. These terms mean the amount of interest charged on delinquent debts.

* * * * *

3. 7 CFR 1403.3 is amended by revising paragraph (c) to read as follows:

§ 1403.3 Late payment charge.

* * * * *

(c) The late payment charge will be computed on a daily basis through the date payment is received by CCC.

Signed at Washington, DC., on December 21, 1987.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87-29752 Filed 12-28-87; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 51

[Docket No. 87-139]

Animals Destroyed Because of Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the regulations governing the payment of indemnity for animals destroyed because of brucellosis by adding the Simbrah Association to the list of registered breed associations. This action is necessary to include all registered breed associations in the regulations. These associations register purebred animals, maintaining individual animal records that are critical for proper payment of indemnities to owners of cattle destroyed because of brucellosis. The payment of indemnities, in turn, encourages the elimination of cattle that may spread brucellosis.

DATE: Consideration will be given only to comments postmarked or received on or before January 28, 1988.

ADDRESSES: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Specifically refere to Docket Number 87-139. You may review these comments at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION: Dr. R.D. Hobbs, Senior Staff Veterinarian, Regulatory Communications and Compliance Policy Staff, VS, APHIS, USDA, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5861.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 51 (referred to below as the regulations) provide for the payment of indemnities to owners of cattle, bison, and swine destroyed because of brucellosis. Our experience indicates that, if these indemnities were not paid, many owners would not cooperate in the timely removal of infected animals from the herd or, in the case of herd depopulation, in removing a focus of infection in an otherwise clear area to prevent transmission of brucellosis to nearby, susceptible herds.

Under § 51.3(a)(1) of the regulations, the indemnity shall not exceed $250 for any registered cattle or nonregistered dairy cattle or, with certain exceptions, $50 for any nonregistered cattle or bison. Section 51.3(a)(2) also sets indemnity rates for cattle and bison, including registered cattle, destroyed during herd depopulation. These rates, too, are higher for registered cattle and nonregistered dairy cattle than for other nonregistered cattle and bison.

Section 51.1 of the regulations lists known registered breed associations. It also defines a registered breed association as:

> An association formed and perpetuated for the maintanance of records of purebreeding of animal species for a specific breed whose characteristics are set forth in Constitutions, By-Laws, and other rules of the association. The records maintained by such an association shall include an Official Herd Book or other recordkeeping format and Certificates of Registration or Recordation

which identify an animal as registered animal of that registered breed association.

Registered animals are purebreds registered with a breed association listed in § 51.1 of the regulations. To receive indemnity for registered cattle destroyed because of brucellosis, an owner must provide registration papers in that owner's name for each animal destroyed.

The Simbrah Association petitioned APHIS to list it in § 51.1 of the regulations as a registered breed association. It provided APHIS with documents demonstrating that it qualified as a registered breed association. Since the Simbrah Association appears to meet the criteria for registered breed associations in § 51.1, we propose to add it to the list.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less that $100 million; would not cause a major increase in costs or prices for consumers, individuals, industries, federal, state, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

The economic impact of this proposed rule is that it would allow approximately 2,200 small cattle producers owning registered Simbrah to receive a higher indemnity rate if these cattle must be destroyed because of brucellosis. There are many thousands of small cattle producers who do not own this registered breed of cattle and would therefore not be affected by this proposed rule.

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

Executive Order 12372

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

List of Subjects in 9 CFR Part 51

Animal diseases, Bison, Brucellosis, Cattle, Hogs, Indemnity payments.

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

Accordingly, 9 CFR Part 51 would be amended as follows:

1. The authority citation for Part 51 would continue to read as follows:

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

§ 51.1 [Amended]

2. In § 51.1, the definition of "Registered breed association" would be amended by inserting "Simbrah Association," immediately after "Santa Gertrudis Breeders International,".

Done in Washington, DC, this 22nd day of December 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87–29717 Filed 12–28–87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-101-86]

Taxable Years of Certain Partnerships

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary income tax regulations relating to the taxable years of certain partnerships. The text of the temporary regulations serves as the comment document for this notice of proposed rulemaking.

DATES: The proposed amendments to the Income Tax Regulations contained in this document would be effective for partnership taxable years beginning after December 31, 1986.

Written comments and requests for a public hearing must be delivered or mailed by February 29, 1988.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–101–86) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, Attention: CC:LR:T (202–566–3297, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR Part 1) under section 706.

For the text of the temporary regulations see T.D. 8169 published in the Rules and Regulations portion of this issue of the **Federal Register.** The preamble to the temporary regulations explains the addition to the regulations.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking the solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Gail H. Morse of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal

Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

Lawrence B. Gibbs,

Commsisioner of Internal Revenue.

[FR Doc. 87-29774 Filed 12-24-87; 9:09 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Reopening of Public Comment Period; Proposed Amendment VII; North Dakota Permanent Regulatory Program

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

ACTION: Reopening of public comment period.

SUMMARY: OSMRE is reopening the period for review and public comment on an amendment submitted by the State of North Dakota to modify its permanent regulatory program. On April 14, 1987 (52 FR 12002), OSMRE announced a public comment period and procedures for requesting a public hearing on the proposed amendment to the North Dakota permanent program which was approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consisted of modifications to North Dakota Administrative Code (NDAC) Article 69-05.2 on performance bonds and liability insurance, postmining land use, and signs and markers. On September 23, 1987 (52 FR 35735), OSMRE reopened the comment period to allow the public an opportunity to comment on additional materials relating to the proposed amendment submitted August 24, 1987 by North Dakota in response to an issue letter from OSMRE July 27, 1987.

OSMRE is again reopening the comment period to allow the public an opportunity to comment on additional material relating to the proposed amendment submitted December 14, 1987 by North Dakota in response to an issue letter from OSMRE December 10, 1987.

This notice sets forth the times and locations that the proposed amendment as modified is available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment and information pertinent to the public hearing.

DATES: Written comments, data or other relevant information not received on or before 4:00 p.m. on January 13, 1988 will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand-delivered to Mr. Jerry R. Ennis, Director, Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601-1918

The public hearing, if requested, will be held at the North Dakota Capitol Building, Bismarck, North Dakota 58505.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry R. Ennis, Director, Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601-1918; Telephone: (307) 261-5776. Copies of the North Dakota program amendment, the North Dakota program, and the administrative record on the North Dakota program are available for public review and copying at the OSMRE offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record, 1100 L Street NW., Room 5131, Washington, DC 20240.

Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Room 2128, Casper, Wyoming 82601-1918.

North Dakota Public Service Commission, Reclamation Division, Capitol Building, Bismarck, North Dakota 58505.

SUPPLEMENTARY INFORMATION:

I. Background

Information concerning the general background on the permanent program, general background on the State program approval process, general background on the North Dakota program submission, Secretary's findings, disposition of public comments and Secretary's decision of conditional approval can be found in the December 15, 1980 **Federal Register** (45 FR 82214). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 934.10, 934.10, 934.12, 934.13, and 934.15.

II. Proposed Amendment

On February 17, 1987, the State of North Dakota submitted to OSMRE an amendment to its approved permanent regulatory program. The amendment consisted of revisions to the approved North Dakota regulations. The amended section of the regulations and brief description of the amended subject area is as follows: Section 69-05.2-12 performance bonds—liability insurance; section 69-05.2-13-04 performance standards—general requirements—signs and markers; and section 69-05.2-23 performance standards—postmining land use.

OSMRE is seeking comment on whether North Dakota's proposed revisions to its regulations are in accordance with SMCRA and no less effective than the requirements of the revised Federal regulations and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the proposed program and modifications submitted by North Dakota for OSMRE's consideration are available for public review at the addresses listed.

During review of this amendment, OSMRE identified several concerns. OSMRE notified North Dakota of these concerns by letter dated July 27, 1987, and again December 10, 1987.

By letters received August 24, 1987 and December 14, 1987 North Dakota outlined its proposed remedies to meet OSMRE's concerns. The full text of these letters are available for review at the locations listed above under "addresses." OSMRE is now seeking comment on the December 14, 1987 response from North Dakota.

List of Subjects in 30 CFR Part 934

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

Raymond L. Lowrie,

Assistant Director, Western Field Operations, Office of Surface Mining Reclamation and Enforcement.

Date: December 22, 1987.

[FR Doc. 87-29767 Filed 12-28-87; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-87-080]

Drawbridge Operation Regulations; Anacostia River, Washington, DC

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of CONRAIL, the Coast Guard is considering amending the regulations governing the

operation of the vertical lift railroad bridge across the Anacostia River, at mile 3.4, in Washington, DC. The proposal would require eight hours advance notice for all bridge openings from October 1 through March 31 and for bridge openings on weekdays, other than Federal Holidays, between the hours of 11:00 p.m. to 7:00 a.m., from April 1 through September 30. This eliminates the need to have a person constantly available to open the draw during a time of the year when few vessels transit the river. It should provide for the reasonable needs of navigation.

DATE: Comments must be received on or before February 12, 1988.

ADDRESSES: Comments should be mailed to Commander (oan), 431 Crawford Street, Fifth Coast Guard District, Portsmouth, Virginia 23704-5004. The comments and other materials referenced in this notice will be available for inspection and copying at 431 Crawford Street, Room 507, Portsmouth, Virginia. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, (804) 398-6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Fifth Coast Guard District will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Linda L. Gilliam, Project Officer, and CDR Robert J. Reining, Project Attorney.

Discussion of Proposed Regulations

In December 1986, CONRAIL requested that the regulations for the railroad bridge be amended to restrict the openings of the bridge at all times between October 1 through March 31 and between 11:00 p.m. and 7:00 p.m. between April 1 through September 30. During these timeframes the bridge would only open if eight hours advance notice was given.

The current regulations in 33 CFR 117.253 require the railroad bridge to open on signal on weekdays, between 10:00 a.m. to 8:00 p.m. and at all times on Saturdays, Sundays, and Federal Holidays from April 1 to September 30. The draw is only required to open on signal on the hour from 8:00 a.m. to 10:00 a.m., on Mondays through Fridays, other than Federal Holidays, from April 1 through September 30, and from 10:00 a.m. to 6:00 p.m., on Saturdays, Sundays, and Federal Holidays, from October 1 through March 31. At all other times the draw is required to open on signal, if at least two hours notice is given.

The requested change increases the hours on weekdays during the boating season when the bridge is required to open on signal. If adopted, the bridge will be required to open on signal three hours earlier in the mornings and three hours longer in the evenings. The proposal eliminates the hourly openings during the nights on weekdays during the boating season and during the day on Saturdays, Sundays, and Federal Holidays during the late fall and winter months. The proposal also changes time required for advance notice from two hours to eight hours. The logs submitted by CONRAIL show that from October 1, 1985, through March 31, 1986, the bridge only opened a total of 50 times, an average of approximately 8 times a month. During the evenings from April 1, 1986, through September 30, 1986, the bridge opened 42 times. Based on this information, CONRAIL requested the elimination of the opening schedule for the winter months and the evenings during the boating season. They argue that there is insufficient waterway traffic to justify manning of this span on a continual basis all year round. They feel it would be more cost effective to provide a drawtender when eight hours advance notice is provided for openings during the evening hours of the boating season and during the winter months.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnnecessary. Because of the infrequent openings during the winter months and the evening hours of the boating season, the economic impact should be minimal. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 is amended to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).)

2. Section 117.253(b) is revised to read as follows:

§ 117.253 Anacostia River.

* * * * *

(b) The draw of the CONRAIL bridge, mile 3.4, shall open as follows:

(1) On signal on Saturdays, Sundays, and Federal holidays from April 1 through September 30.

(2) On signal on weekdays, which are not Federal Holidays, between 7:00 a.m., and 11:00 p.m., from April 1 through 30 September.

(3) On signal, if at least eight hours notice is given, at all other times.

(4) On signal at all times for public vessels of the United States, state and local government vessels, commercial vessels, and any vessel in an emergency involving danger to life or property.

Dated: December 8, 1987.

A. D. Breed,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 87-29755 Filed 12-28-87; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[General Docket 87-551; FCC 87-375]

Radiofrequency Radiation Compliance of FM Booster Stations

AGENCY: Federal Communications Commission (FCC).

ACTION: Proposed rule.

SUMMARY: This item proposes to amend Part 1 of the Commission's Rules to add FM booster stations, licensed under Part 74, Subpart L, to the category of transmitters to which § 1.1307(b) applies. Section 1.1307(b) specifies that certain classes of transmitters must be analyzed for their potential to cause significant human exposure to

radiofrequency (RF) radiation. This item is a direct result of the Commission's recent *Report and Order* in MM Docket 87-13 allowing significantly higher operating powers for this class of stations. The present proceeding is a consequence of the Commission's responsibilities under the National Environmental Policy Act of 1969 to evaluate environmental impact from FCC-regulated facilities.

DATES: Interested parties may file comments on or before February 8, 1988, reply comments on or before February 23, 1988.

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

FOR FURTHER INFORMATION CONTACT: Dr. Robert Cleveland, Office of Engineering and Technology, FCC, telephone (202) 653-8169.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, General Docket 87-551, FCC 87-375, Adopted December 1, 1987, and Released December 17, 1987.

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

Summary of Notice of Proposed Rule Making

FM booster stations are a special class of FM translators that provide service to areas normally unable to receive satisfactory service from the full service stations due to terrain obstructions. Until recently such stations were limited to output powers of 10 watts or less. On July 16, 1987, (published in the **FEDERAL REGISTER** April 20, 1987, 52 FR 31398) the Commission adopted a *Report and Order* amending Part 74 of the FCC's Rules to permit substantial increases in the output power of FM booster stations. The new rules went into effect on September 21, 1987.

FM translators, licensed under Part 74, Subpart L, were previously categorically excluded from the requirement for evaluation of environmental radiofrequency radiation specified in § 1.1307(b) of the Commission's Rules. This exclusion was based primarily on the low power limitation for these transmitters. However, now that this power limitation has been relaxed, the Commission is proposing to revoke the categorical exclusion for this class of transmitting facilities. Although, in general, it is unlikely that these stations would cause excessive environmental exposures, the Commission no longer believes that a categorical exclusion is justified.

Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities since the proposed rule is designed to provide for compliance with environmental requirements while simultaneously minimizing burden on applicants. It is expected that relatively few applicants would have an environmental problem that would lead to significant impact.

Paperwork Reduction Act

The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ex Parte

This is a non-restricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Ordering Clauses

Accordingly, IT IS ORDERED that there is hereby instituted a *Notice of Proposed Rule Making* in this proceeding to amend Part 1 of the Commission's Rules and Regulations as set forth below. All interested persons may file comments on this specific proposal on or before February 8, 1988. Reply comments shall be filed on or before February 23, 1988. In accordance with § 1.1419, an original and five (5) copies of all filings shall be furnished to the Commission. Copies of comments and reply comments filed in this proceeding will be available for public inspection during regular business hours in the Commission's Reference Room at 1919 M Street, NW., Washington, DC 20554.

List of Subjects in 47 CFR Part 1

Practice and procedure, National Environmental Policy Act, Radiofrequency radiation.

Proposed Rule Changes

It is proposed to amend Part 1, Subpart I, of Title 47 of the Code of Federal Regulations as follows:

PART 1—PRACTICE AND PROCEDURE

The authority citation for Part 1 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

In § 1.1307, it is proposed that the note in paragraph (b) be revised as follows:

§ 1.1307 Actions which may have a significant environmental effect, for which environmental assessments (EAs) must be prepared.

* * * * *

(b) * * *

Note—Paragraph (b) shall only apply to facilities and operations licensed or authorized under Parts 5, 25, 73, and 74 (Subparts A, G, and L only). Facilities and operations licensed or authorized under other Parts or Subparts of the Commission's Rules shall be categorically excluded from consideration under paragraph (b) unless such exclusion is superseded by actions taken by the Commission under the provisions of paragraphs (c) or (d) of this section.

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-29601 Filed 12-28-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking; Vehicle Rollover Resistance

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: The agency denies a petition for rulemaking submitted by Senator Timothy E. Wirth regarding vehicle rollover resistance. Senator Wirth petitioned the agency to: (1) Initiate rulemaking to establish a Federal motor vehicle safety standard to limit the rollover propensity of passenger cars, utility vehicles and pickup trucks, by requiring that those vehicles have a "stability factor" equal to or exceeding a specified minimum value; (2) open a

defect investigation of those existing vehicles whose stability factor is less than the minimum required by the standard requested above, to determine whether such vehicles should be retrofitted with roll cages; (3) obtain stability factor and rollover information for all vehicles sold in this country and make that information available to the public; and, (4) warn owners of vehicles with the greatest propensity for rollover of the operational limits of their vehicles and inform them of the steps they can take to prevent death and injury from a vehicle rollover.

NHTSA is denying Senator Wirth's request to establish a rollover safety standard because the agency has determined that, while there is a significant rollover problem and while a vehicle's stability factor has some relation to its overall involvement in rollover accidents, basing an effort to address the rollover problem on the stability factor alone is too narrow and inappropriate an approach. The order requested by the petitioner would neither adequately encompass the causes of vehicle rollover nor satisfactorily ameliorate the problem. Further, such an order might induce manufacturers to take actions that in some instances could have a net adverse effect on safety. Such an order could even result in outlawing all or most of an entire vehicle type. The agency believes it may be appropriate to consider rulemaking on vehicle rollover characteristics when its ongoing and planned research relating to stability and other aspects of the problem is completed.

The agency will respond to the petitioner's second request, the one for a defect proceeding, in a separate notice.

The agency is denying the petitioner's third request, i.e., to publish stability factor and rollover information. The agency does not agree with the petitioner that the stability factor alone is an accurate predictor of rollover involvement. Thus, the agency does not believe that this information will prove instructive to consumers.

However, the agency believes that the petitioner's fourth request has merit and accordingly has published an informational brochure that provides utility vehicle owners with safety information on the handling characteristics of their vehicles.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Shadle, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone (202) 366-5273.

SUPPLEMENTARY INFORMATION:

Petition for Rulemaking

In September 1986, Senator Timothy E. Wirth petitioned NHTSA to commence rulemaking and take over actions regarding the subject of vehicle rollover resistance. More specifically, the petition asked the agency to:

(1) Initiate rulemaking to establish a Federal motor vehicle safety standard to limit the rollover propensity of passenger cars, utility vehicles and pickup trucks, by requiring that those vehicles have a stability factor (petitioner defines "stability factor" as one-half of a vehicle's track width divided by the height of the vehicle's center of gravity; or T/2/H, where T is track width and H is center of gravity height) that equals or exceeds a specified minimum value;

(2) Open a defect investigation of those existing passenger cars, utility vehicles and pickup trucks whose stability factor is less than the minimum required by the standard requested above, to determine whether such vehicles should be retrofitted with roll cages, etc.;

(3) Obtain stability factor and rollover information for all vehicles sold in this country and make that information available to the public; and,

(4) Warn owners of vehicles with the greatest propensity for rollover of the operational limits of their vehicles and inform them of the steps they can take to prevent death and injury from a vehicle rollover.

The justification in the petition for these requests is based heavily on a research report by Leon Robertson and A. Benjamin Kelley, regarding the relationship between a vehicle's physical characteristics and the vehicle's involvement in rollover accidents. In their May 1986 report, "The Role of Stability in Rollover-Initiated Fatal Motor-Vehicle Crashes Under On-Road Driving Conditions," Robertson and Kelley studied whether there was a relationship between the physical stability measurements of 14 different vehicles and the rollover rates for those vehicles. The authors studied on-road crashes, and included in their data set "those [crashes] in which a rollover of the vehicle alone was the first harmful event, those in which no other vehicle was involved but the vehicle did not initially roll over, and multiple-vehicle collisions in which the vehicle did not initially roll over." (*Id* 34) The crash records were obtained from files from the Fatal Accident Reporting System (FARS), for years 1981-1984. (FARS, a system developed and managed by NHTSA, is a census of data on all fatal traffic accidents within the United States, District of Columbia and Puerto Rico.)

Robertson and Kelley stated that they found a strong correlation between the stability values of the vehicles they studied and the vehicles' "rollover-initiated" fatal crash rates. According to the authors, the stability factor accounted for almost two-thirds (63 percent) of the variation in percent rollovers among the vehicles studied. The authors concluded that "percent rollover is a linear function of vehicle stability" (*id*, 17)—i.e., vehicles with the lowest stability values (such as some types of utility vehicles) "rollover more than vehicles with higher measures because they are * * * designed in defiance of the laws of nature."

In his petition, Senator Wirth relied heavily on the indexed stability values of the Robertson and Kelley report to argue for an "objective standard" reducing the likelihood of vehicle rollovers. The petitioner stated that the study isolated the "cause" of rollover and provided a basis for an objective and practicable safety standard. The petitioner suggested that study has thus solved what he characterized as the longstanding obstacle to setting a standard addressing rollover tendencies, i.e., the lack of repeatability found in past explorations of vehicle handling tests. The petitioner suggested that NHTSA consider Robertson and Kelley's findings and prescribe a stability factor of 1.20 "as the minimum standard acceptable level of stability." (No particular value for a stability factor is recommended in Robertson and Kelley's report. The petitioner apparently selected the 1.20 stability value because it falls in between the range of values (1.01 to 1.10) for vehicles found in the report to have excessive involvement in rollover-initiated fatal crashes and the range of values (1.21 to 1.62) for the vehicles found in the report to have lower "rollover contribution to fatal crashes.")

Agency Response to Request for Rollover Safety Standard

After receiving Senator Wirth's petition, the agency commenced a thorough review of its requests and underlying justification. The agency carefully considered the petitioner's request for the issuance of a new safety standard to address the rollover problem. As part of this effort, the agency evaluated the methodology and conclusions of the Robertson and Kelley report and supplemented that work by making its own analysis of separate and larger samples of vehicles.

NHTSA has been especially concerned with rollover crashes due to the high injury and fatality rates associated therewith, and believes that it would be desirable to ameliorate the rollover problem through reasonable and practicable means. Rollover and other vehicle stability problems were identified in the agency's May 1987 report to Congress on "Light Truck and Van Safety." The agency noted in the report that:

> Pickup trucks and multipurpose passenger vehicles have higher fatality rate in rollovers than cars. Multipurpose passenger vehicles have three times the normalized fatality rate of all vehicles. Rollovers account for 44 percent of all light truck deaths, the single largest category for such vehicles. This is compared to rollovers representing only 23 percent of passenger car fatalities.

The report also discussed agency efforts to ameliorate those problems.

The agency has several planned activities specifically relating to rollover accident data gathering and the safety of certain special vehicle types, including the crashworthiness of open-body type utility vehicles, and the stability of light trucks and utility vehicles with modified suspensions. In addition, NHTSA is developing a research plan to address the stability of all types of light duty vehicles. A summary of all these ongoing and planned activities is discussed below in the section of the preamble entitled "Future agency action."

However, based on its careful consideration of the petitioner's request for a new standard, NHTSA has determined that this request should be denied since there is not a reasonable possibility that the requested new standard would be issued at the conclusion of a rulemaking proceeding. The agency does not believe that taking the single step of prescribing a minimum stability factor is the appropriate solution to the multifaceted problem of vehicle rollover.

Before discussing its evaluation of the petition's merits, the agency wishes to emphasize a few points about Senator Wirth's petition and NHTSA's denial thereof. First, this notice deals with an assumption or hypothesis that has been made by the petitioner regarding the relationship of stability factors to rollover crashes. Because the petitioner requests a course of action that is premised on the validity of this assumption, it has been necessary for the agency to determine whether that assumption is indeed valid.

More specifically, the key issue in the agency's evaluation is whether a vehicle's stability factor has been shown to be so intrisically related to rollover that all vehicles with certain "low" stability values should be considered inherently unstable and "designed in defiance of the laws of nature" (page five of the petition, quoting from Robertson and Kelley, page 36), and their manufacture should therefore be prohibited. This is not simply a technical matter, since prohibiting an entire class of vehicles raises issues of statutory authority, as discussed below in the section entitled "Statutory consideration."

Second, it should also be noted that the discussion and analyses that follow are in some cases limited to utility vehicles. ("Utility vehicles' are defined in 49 CFR 575.105 as multipurpose passenger vehicles (other than those which are passenger car derivatives) with special features for occasional off-road operation and a wheelbase of 110 inches or less.) There are two reasons for this approach. One is that although the petition requests a standard of general applicability that would be applicable to all light duty vehicles, it is clear from the petition that Senator Wirth focuses his concern on utility vehicles. The other is that it was appropriate in the agency's analysis of data from the Fatal Accident Reporting System (the FARS analysis, described below in the section entitled "Agency analyses of larger data samples) to consider only one class of vehicle in evaluating the effects of vehicle factors. This is because the rate of a vehicle's accident involvement in various accident modes is related to the basic design characteristics of the vehicle, which in turn, reflect the function for which it was designed.

NHTSA has further determined that the conclusions made about the role of the stability factor in rollover accidents resulting from its analyses of utility vehicles are also applicable to passenger cars and light trucks, i.e., the other classes of vehicles for which the petitioner requests a proscribed stability factor. The agency is aware of no information which would indicate that conclusions made from an analysis of utility vehicles concerning the stability factor are inappropriate as regards the other vehicle types. In fact, NHTSA's analysis of state accident data (the CARDfile analysis, described below in the section entitled "Agency analyses of larger data samples) did not indicate any differences between the effect of the stability factor on utility vehicles versus passenger cars as regards the rate of rollover accident involvement.

Evaluation of Robertson and Kelley

The agency is unable to agree with the petitioner that the Robertson and Kelley report "isolates the cause of rollover," or that it shows that a vehicle's stability factor is an appropriate or accurate predictor of vehicle rollover accident involvement. As will be discussed below, the agency's analyses indicate that the stability factor is a good predictor of rollover involvement if it is applied to a subsample of particular, individual vehicles, each of which has already been involved in a single vehicle accident, and used to predict which of them rolled over during its accident. However, the analyses also show that the stability factor is not nearly as effective in predicting rollover involvement when it is applied to a sample of vehicles, none of which has been involved in an accident, and used in an effort to predict which of them will become involved in a rollover accident. The reason for the lower predictive capability in the second instance is that the stability factor does not take into consideration the full array of vehicle characteristics that contribute to a vehicle's becoming involved in an accident which includes rollover. Stated differently, the stability factor explains nearly all the variance in the rollover accident involvement of vehicles that have already become involved in a single vehicle accident. However, it explains very little of the variance of different vehicles' becoming involved in those single vehicle accidents. Thus, it is not a valid predictor of the overall risk of rollover.

The stability factor does not take into consideration such chassis and suspension variables as wheelbase, kinematic and compliance characteristics of suspensions, and spring and shock absorber characteristics. Those characteristics are related to accident involvement. The propensity of vehicles to become involved in rollover accidents appears to be a function of both vehicle parameters related to a vehicle's directional control and stability and vehicle parameters related to a vehicle's rollover stability. In some cases, some of these vehicle parameters may influence both directional and rollover stability and in other cases, parameters related to one type of stability may be covariant with parameters related to the other, leading to a synergistic effect on a vehicle's overall rollover accident involvement. The agency believes that until the influences of and interactions between these factors are better understood, it would be inappropriate to initiate rulemaking in this area.

NHTSA has prepared a technical evaluation of the Robertson and Kelley study, which has been placed in Docket

PRM-MP 004. The following discussion provides only a brief summary of the detailed findings of the evaluation.

Similar to other statistical studies, the Robertson and Kelley analysis of utility vehicle rollovers strives to find patterns among seemingly varied data. In such a study, the researchers hope that patterns emerging from a systematic treatment of information can yield a better understanding of the reasons for the occurrence of a particular phenomenon. By their nature, statistical reports such as the Robertson and Kelley investigation draw inferences from the particular to the general. Robertson and Kelley endeavored to generalize about the role of stability in rollover accidents, by drawing inferences from the associations they found between stability and rollover involvement, for the sample of vehicles they selected to study.

Importance of representative sample: Since the authors made inferences from the sample of studied vehicles to the population of vehicles in the real world, it was important that the *sample* of vehicles selected for study be representative of the relevant larger population of vehicles. The agency does *not* believe that the sample selected for study, comprising three older utility vehicles and 11 older passenger cars, is representative of the real-world vehicle population or of current production vehicles. If the sample had been more representative of the recent or current vehicle population and had included more diverse types of utility vehicles such as the Ford Bronco II, post-1977 Ford Bronco, Chevrolet S-10 Blazer and Jeep Cherokee and Wagoneer, and included a representative sample of passenger cars in different size categories, for example, sub-compacts such as the Datsun B210, Toyota Corolla, Honda Civic and Volkswagen Rabbit, then it would have been more likely that the observations about the characteristics of the sample could have imparted helpful information about the role of the stability factor in real-world rollover crashes. (All of these listed models were included in either the agency's CARDfile analysis or its FAR analysis.) However, the sample in the Robertson and Kelley study was not so inclusive, making it is less likely that the inferences made about the parent population are valid. The unrepresentativeness of the cluster resulted in the clumps of data discussed below in the immediately following section.

Agency Analyses of Larger Data Samples

NHTSA performed several analyses of accident data to examine the influence of stability factor on rollover accident involvement. The agency examined an accident datafile (Crash Avoidance Research Data (CARD) file) comprising information derived from state police accident reports on eight utility vehicle models and 19 passenger cars. These vehicles sampled were selected to span the complete range of stability factors from large domestic passenger cars to utility vehicles. In addition, NHTSA also analyzed utility vehicle rollovers using data from the Fatal Accident Reporting System (FARS). In this latter analysis, the agency examined 1981 through 1985 FARS data and selected single vehicle accidents involving at least one occupant fatality, and single vehicle accidents that involved rollover as the first or subsequent event.

The results of the agency's CARDfile and FARS analyses confirmed the findings of the Robertson and Kelley report that there is a linear trend of stability factor versus rollover accident involvement. However, the results could not support the conclusions made by Robertson and Kelley or the recommendations made by the petitioner. Contrary to the impression created by the very limited sample used in the Robertson and Kelley report, graphing the stability factor versus rollovers per single vehicle accident (RO/SVA) rate for the population of passenger car and utility vehicle models included in the CARDfile analysis does not produce two distinct clusters of data points, one cluster for a group of vehicles with high stability factors and low RO/SVA rates and the other for a second group with low stability factors and high RO/SVA rates. Instead, the data points for the various vehicles are spread continuously and gradually across a wide range of stability factor values. Thus, the agency's analyses indicated that, contrary to the supposition of the petition, there is no obvious value above which a stability factor described a "safe" vehicle and below which the factor described an "unsafe" vehicle. Even if there were such an obvious value, the agency would still be confronted with the issues discussed below under "Statutory consideration."

Based on its analyses, the agency has determined that while a vehicle's stability factor can reasonably predict whether a vehicle which is already involved in a single vehicle accident will roll over, it does not accurately determine its likelihood of becoming involved in an accident that includes rollover. The agency has also determined that regulating the height and width of a vehicle is not, by itself, a reasonable means of addressing the rollover accident problem. By this statement, the agency does not intend to imply that the stability factor has an insignificant role in rollover involvement. Instead, the agency has determined that the available information indicates that a vehicle's stability factor is but *one* factor among many others affecting rollovers. The results from the agency's FARS analysis appeared to be consistent with findings from other studies indicating that there may be significant factors related to the directional control and stability characteristics of vehicles which may significantly influence the rollover accident involvement of vehicles (e.g., Malliaris, et al., "Problems in Crash Avoidance and in Crash Avoidance Research," March 1983; Dynamic Research, Inc., "Engineering Interpretation of Passenger Vehicle Accident Data," September 1986; Allen, et al., "Validation of Tire Side Force Coefficient and Dynamic Response Analysis Procedures: Field Test and Analysis Comparison of a Front Wheel vs. a Rear Wheel Drive Subcompact," February 1986; Forrest M. Council and Donald W. Reinfurt, "Safety Issues Related to Mini-cars from a Roadway Perspective," February 1987). Malliaris, et al. found that the likelihood of a rollover occurring in a single vehicle accident is dependent upon a vehicle's pre-crash condition. More than one-half of the vehicles involved in the rollover accident data reviewed in that study were sliding sideways prior to rolling over. The study concluded that the likelihood of different vehicles to be sliding sideways during a single vehicle accident varied from one vehicle type to another. Council and Reinfurt concluded that while the stability factor was related to rollover propensity,

> * * * it is not the sole indicator of the vehicle's propensity to roll. There exists an inherent resistance of vehicles to roll which must be a function of certain other vehicle parameters which are yet to be defined.

The agency plans to investigate accident data further in an attempt to determine which vehicle characteristics would tend to increase the likelihood that a vehicle will be involved in the accident mode (e.g., sliding sideways) where the chances of a rollover are increased. The Malliaris findings indicate that the effects of various vehicle characteristics on directional

stability appear to be extremely important in determining the likelihood of a vehicle's being involved in a rollover. Yet, neither the nature of these effects nor those of other factors influencing rollover accident involvement are sufficiently understood at this time.

Statutory Consideration

The agency identified another significant concern in its evaluation of this petition. The adoption of the stability factor requirement could contravene section 103(f)(3) of the National Traffic and Motor Vehicle Safety Act which provides that the Federal motor vehicle safety standards must be reasonable and appropriate for each vehicle type to which they apply. In *Chrysler Corporation* v. *Department of Transportation*, 472 F.2d 659, at 679 (1972) (regarding the agency's first automatic restraint requirement for passenger cars), the United States Court of Appeals for the 6th Circuit stated the implications of that section:

> * * * that safety standards shall take into consideration different classes of vehicles, such as small cars, sports cars, or convertibles, and that standards shall not be used as a device to bring about their extintion, is made clear from the Act's legislative history:
>
> "[I]n determing whether any proposed standard is 'appropriate' for the particular type of motor-vehicle equipment or item of motor-vehicle equipment for which it is prescribed, the committee intends that the Secretary will consider the desirability of affording consumers continued wide range of choices in the selection of motor vehicles. Thus it is not intended that standards will be set which will eliminate or necessarily be the same for small cars or such widely accepted models as convertibles and sports cars, so long as all motor vehicles meet basic minimum standards." S. Rept. 1301, 2 U.S. Code, Cong. & Admin. News, 2714 (1966).

Since few existing utility vehicles have a stability factor exceeding 1.2, adoption of the stability factor requirement would require that almost all utility vehicles be changed. In many cases, those changes could be substantial and have adverse safety effects. The necessity of increasing a vehicle's stability factor might very likely induce its manufacturer to lower the center of gravity by reducing the weight of the structure surrounding the sides and top of the occupant compartment or by reducing ground clearance. The net effect of the former modification might be to make the utility vehicles less safe. For example, the elimination of roof structure or roll cages (which the petitioner claims the agency should require on vehicles with "low" stability factors) would increase the stability factor but decrease the vehicle's crashworthiness. The latter modification might severely reduce the capability of utility vehicles to perform their intended off-road occupational and recreational functions; in essence banning this type of vehicle. Particularly because of the latter type of effect, the agency believes that it should expand its search for solutions beyond the stability factor to include, for example, consideration of methods for reducing the likelihood that vehicles will become involved in the type of pre-rollover events like sliding and spinning which significantly increase the possibility of rollover.

Agency Decision

Based on the foregoing discussion, NHTSA believes it is untimely and unreasonable to promulgate a safety standard for rollover resistance based on the current state of knowledge about the problem. Therefore, because NHTSA has concluded that the approach the petitioner suggested, with its exclusive focus on the stability factor is not a satisfactory answer to the vehicle rollover problem, and since there is currently insufficient knowledge about vehicle crash avoidance performance on which to base a standard for vehicle rollover resistance, Senator Wirth's petition for rulemaking is denied.

NHTSA is in the midst of active research, as discussed in its May 1987 report to the Congress, and is planning other activities to address the issue of directional and rollover stability of light duty vehicles, including utility vehicles. The currently completed portion of the research plan is outlined below. The agency is confident that valuable information will be obtained from these and other research efforts. As more information becomes available, NHTSA believes the underlying factors contributing to rollover will be sufficiently understood and that a reasonable approach addressing the rollover problem can be achieved.

Future Agency Action

As described in NHTSA's Light Truck and Van Safety report, the agency has developed a research agenda that emphasizes areas where there appears to be a major safety problem susceptible to improvement and areas where promising measures for improved safety already exist. Areas that specifically relate to the rollover issues raised in the agency's evaluation of Senator Wirth's petition for rulemaking include the following:

- *Stability and Control of Light Trucks and Multipurpose Passenger Vehicles During Braking.* NHTSA has implemented a program to investigate the extent to which vehicle instability (due to factors such as unbalanced braking, center of gravity height, and suspension roll stiffness) results in loss of control and, ultimately, in rollover. A range of light, medium and full-sized pickup trucks and multipurpose passenger vehicles will be analyzed by computer simulation and full scale testing. This program has already begun, and NHTSA anticipates it will be completed in 1989.
- *Rollover Performance of Light Trucks.* NHTSA will conduct a series of dynamic rollover tests to evaluate roof structures and ejection prevention. NHTSA will examine accident data to determine the conditions under which rollover crashes resulting in serious injuries occur. Test devices and procedures will be evaluated during the next 12 months, and results from the rollover tests will be evaluated over the following two years.
- *Light Truck Accident Data Analysis.* The agency is analyzing the safety of various sizes and types of light trucks in different crash modes. Compact pickup, standard pickup, compact van, standard van, and multipurpose passenger vehicle categories are being analyzed in front, rear, side and rollover crash modes. Data from FARS and NASS, as well as from several state accident data files will be analyzed to gain a more complete picture of light truck safety problems.

In addition to these rsearch efforts, the following are other programs that specifically address rollover accidents and related vehicle factors:

- *Rollover, Braking, and Dynamic Stability-Modified Suspension Vehicles.* NHTSA will undertake research to determine the effects that modifications to a vehicle's center of gravity height have on the vehicle's rollover, braking and directional stablity. One of the vehicles to be tested during this program will be a utility vehicle.
- *Maryland Single Vehicle Rollover Study.* Over the next year, the Maryland State Police will collect greatly expanded pre-crash documentation and crash data on 2800 single vehicle rollover accidents.
- *Crashworthiness Research.* The accident data for utility vehicles indicate that the fatality rates for utility vehicles are much higher than those for other vehicle classes. These data also show, however, that utility vehicles overall are not involved in more accidents, and for accidents of all levels of severity, do not produce more injuries. However, utility vehicle

accidents to result in greater numbers of severe injuries and fatalitites compared to other vehicle classes. This seems to be due both to the relative numbers of certain types of high injury producing accidents in which they are involved (e.g., rollovers) and the relatively higher numbers of severe injuries and fatalities that result from other types of accidents. Because these data indicate that the high fatality rates for utility vehicles may be partly explained by the crashworthiness of the vehicles, the potential benefits of improving the crashworthiness of utility vehicles, particularly in rollover accidents, will be reviewed by the agency. For the most part, this activity is part of the Rollover Performance of Light Trucks program that was mentioned above. However, NHTSA is considering focusing effort on addressing the peculiar issue of rollover crash protection for those utility vehicles that do not have a permanent roof structure. Further, NHTSA will evaluate the effectiveness of roll bars and roll cage structures that are installed on a vast majority of current utility vehicle models. The evaluation will involve analyzing accident data and dynamic rollover testing of vehicles.

The agency is also in the process of developing a work plan that will identify and resolve safety related problems dealing with light duty vehicles (i.e., passenger cars, light trucks and vans, and multipurpose passenger vehicles) that become unstable, go out of control and become involved in crashes as a result of driver or environmental inputs or inherent response characteristics of the vehicle. The goal of the research plan is to provide a thorough understanding of safety relevant vehicle stability and control characteristics under extreme performance conditions. Under these conditions, tires lose or are on the verge of losing adhesion or coupling with the road surface, and directional instability, roll instability and loss of control are likely to occur. The rollover accident will be singled out for special attention in a major portion of the plan.

Agency Response to Petitioner's Other Requests

The petitioner requested other actions by the agency, three of which were related to the stability factor. The agency will address the petitioner's request for a defect proceeding in a separate notice. Because the agency has determined that the stability factor alone has not been shown to be an accurate or reliable predictor of rollover involvement, the petitioner's request for publication of stability factor information is also denied. Publication of such information could lead consumers to select vehicles which, while differing in stability factors, may have completely unrelated probabilities of rolling over while in use.

While the agency has too many reservations about the role of stability factors in rollover involvement to propose a stability fator standard or publish stability factor information, NHTSA agrees with Senator Wirth in his belief that information about the operational limits of utility vehicles provided to the present owners of those vehicles could improve motor vehicle safety. The petitioner urged NHTSA to inform the general public "on how to drive safely in [utility] vehicles."

The agency already requires manufacturers of certain new utility vehicles to affix a sticker in the vehicle and include information in the owner's manual alerting drivers of the particular handling and maneuvering characteristics of utility vehicles (49 CFR 575.105). Nevertheless, NHTSA agrees with the petitioner that consumers could benefit from an information brochure on utility vehicle handling characteristics and that the safety information should reach as many utility vehicle drivers as possible. Thus, consistent with the petitioner's concerns, the agency has published a consumer information brochure on utility vehcile safety. The brochure notes that there are differences between utility vehicles and passenger cars and explains that those differences cause utility vehicles to handle and maneuver differently. It notes that if a utility vehicle driver makes sharp turns or abrupt maneuves, there is a risk that the vehicle may roll over or go out of control. In view of the rollover risk, the brochure cautions utility vehicle occupants that it is particularly important to wear a safety belt to prevent ejection and identifies features such as rollbars and rollcages as means of obtaining additional crash protection.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

(Secs. 103, 119, Pub.L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 40 CFR 1.50 and 501.8)

Issued on December 22, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-29739 Filed 12-23-87; 1:22 pm]

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49 CFR Parts 571 and 575

[Docket No. 85-15; Notice 5]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment; Consumer Information Regulations

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the headlighting requirements of Standard No. 108 by deleting certain external dimensions for sealed beam headlamps, lifetime requirements for sealed beam headlamps and standardized replaceable light sources, photometric requirements for headlamps designed to conform to SAE J579a, and certain durability requirements for headlamps. A new category would be added, headlamps without dimensional requirements. An on-vehicle mechanical aim alternative to existing off-vehicle mechanical aim is also proposed. Finally, the notice proposes a new consumer information regulation requiring headlamp part number information to be provided with the vehicle at the time of its delivery to its first retail purchaser. A notice of request for comments was published on these subjects in 1985.

DATES: Comment closing date for the proposal is March 28, 1988. The effective date of the final rule would be 30 days after its publication in the **Federal Register.**

ADDRESSES: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh St., SW., Washington DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, NHTSA, (202-366-5280).

SUPPLEMENTARY INFORMATION: In the past 5 years, the proposal and adoption of additional headlighting systems and their light sources have constituted the major rulemaking actions with respect to Standard No. 108. In part, these actions have represented NHTSA's desire to move towards a more performance-oriented standard.

During this period, NHTSA has tentatively concluded that certain requirements of Standard No. 108 can be simplified or eliminated without compromising safety. In pursuing that conclusion, on October 22, 1985, NHTSA published a notice of Request for Comments that concentrated on certain areas of the headlighting requirements

of Standard No. 108 (50 FR 42735, with extension of comment time at 51 FR 1542 and correction at 51 FR 2536).

This notice of proposed rulemaking responds to the comments submitted on the October 1985 request, presents NHTSA's recommendations for short term simplification and elaborates on its rationale to support the premise that safety will not be compromised and that market forces will satisfactorily address a number of the elements of consumer satisfaction with headlighting systems.

I. Photometric Performance

The initial headlighting photometric requirements of Standard No. 108, effective Janaury 1, 1968, were those of SAE Standard J579a, August 1965. They remained the sole photometrics permissible for motor vehicles other than motorcycles until 1978 when the standard was amended to allow optional compliance with the photometrics of SAE Standard J579c, December 1974 (now December 1978). The principal difference between the two SAE requirements is the allowance of up to 100% more total candela on the upper beam of the J579c lamps. Also, the lower beam of a J579c lamp is aimed more to the left and has a higher intensity, and the upper beam is aimed higher. These differences proved of such benefit and interest to the consumer that, by the early 1980's, virtually all original equipment headlamps were those designed to conform to J579c; as a result, there is very little market today for even replacement headlamps designed to conform to J579a. As NHTSA commented in its 1985 notice, "The existence of three photometric requirements, one of which is for all practical purposes nearly obsolete, promotes unnecessary confusion and serves no apparent safety purposes." (50 FR 42739). The agency therefore has decided to propose the elimination of SAE J579a from Standard No. 108.

II. Elimination of Certain Dimensional Specifications

From its beginning, Standard No. 108 has incorporated by reference detailed SAE drawings prescribing dimensions for most types of sealed beam headlamps. More recently, in the absence of SAE references, detailed drawings have been directly incorporated into the Standard. These dimensions relate to the fit of the lamp into the housing, the size and shape of the lamp and retaining rings, seating plane lugs, electrical prongs, and headlamp mounting ring notches. The primary rationale for their incorporation has been to ensure compatibility between original and replacement equipment, so that proper replacement equipment shall be readily available, shall fit only in the proper receptacle to assure a photometrically correct system, and shall perform with the equivalence of the original lighting equipment.

Those who support dimensional specifications might argue that without them manufacturers of headlamps and associated components, and vehicles, will no longer have a common understanding of dimensional requirements to assure proper fitting of manufactured parts. Those who oppose dimensional requirements might reply that taillamps and other vehicle lamp dimensions are not regulated, that the marketplace will ensure an acceptable amount of commonality, and that dimensional specifications are not necessary for motor vehicle safety and are thus more properly the function of a non-governmental standards setting organization (such as the SAE where the sealed beam specifications originated). It should be noted that Standard No. 108 does not regulate dimensions relating to the size and shape of headlamps equipped with replaceable bulbs. NHTSA is unaware of any reason why headlamps with non-replaceable bulbs (e.g. integral beam headlamps, discussed below) should be treated differently. Since new types of sealed beam headlamps at the present time can only be allowed through the regulatory process, it can also be argued that dimensional requirements may impede technological progress.

In support of those who oppose dimensional requirements NHTSA has tentatively concluded that most dimensional specifications for new types of non-standardized headlighting systems are not necessary for motor vehicle safety. Accordingly, for existing standardized sealed beam headlighting systems, the agency is also proposing deleting dimensions that are not necessary for interchangeability. The agency believes that requirements necessary for interchangeability should be retained for these existing sealed beam systems in order to ensure that replacement headlamps manufactured after the effective date of the final rule will in fact fit. The agency is also proposing incorporating by reference SAE Standard J1383 APR85 *Performance Requirements for Motor Vehicle Headlamps* which retains only those dimensional requirements necessary for interchangeability, and deleting the SAE standards that are incorporated by reference in Tables I and III of Standard No. 108 which have been the source of excess dimensional requirements.

A new category of headlighting system is proposed, which would be known as an "integral beam headlighting system." It would not be required to have industry or Federally standardized dimensions, yet would be similar in concept to existing sealed beam headlighting systems. The integral beam headlamp would be defined as incorporating a lens, reflector and light source in an indivisible unit, but would not necessarily be "sealed" since this is a design related aspect. All new sealed beam systems would be treated as integral systems if this proposal is adopted. Essentially, the design of the size and shape of such a headlighting system would be left to the vehicle or lighting manufacturer. Since such dimensions of integral beam systems would not be standardized (as replaceable bulb headlamps are not standardized) vehicle manufacturers would be required to provide retail vehicle and other aftermarket headlamp purchasers with information necessary to maintain the vehicle's lighting in conformance with the Standard should lamp replacement be necessary. The photometric performance required of integral beam headlighting systems is proposed to be that prescribed by either SAE J579c (using either two or four headlamps per system), or Type F photometry of Figure 15 or 17 of Standard No. 108 (using two, four, or any even number of headlamps per system). The environmental performance required of this system would be that presently required of existing replaceable bulb headlighting systems, however if the lamp is of a "sealed" design, the manufacturer would be relieved of certifying compliance to certain performance requirements that do not apply to sealed lamps.

For aim retention upon lamp replacement the integral beam headlighting would be required to have a common aiming and mounting plane. This proposed common aiming and mounting plane would result in greatly reduced aiming error upon headlamp replacement. It would perform in much the same manner as the present standardized replaceable light source in that the lamp may be replaced with little effect on headlamp aim. This common aiming and mounting plane is presently specified for the most recently permitted sealed beam headlighting systems, Types F, G, and H.

To ensure mechanical aimability, the proposed integral beam systems would be required to have either aiming pads for use with existing off-vehicle mechanical aimers, or fiducial marks

with an integral on-vehicle aiming and mounting mechanism. The use of fiducial marks (as an option to present lens-mounted aiming pads) permits greater headlamp styling freedom, and can potentially provide better aim retention depending on the manufacturers' actual designs. The specification for fiducial marks would be a recognition that they are acceptable substitutes for the aiming pads that are presently found on the lenses of headlamps and are used for the purpose of determining photometric conformance to Standard No. 108, and for mechanical aiming purposes. As discussed in Section V below, the agency is proposing that this requirement for either aiming pads or fiducial marks would apply to new headlighting system designs of both integral beam and replaceable bulb types.

Because NHTSA would not specify the dimensions of integral beam headlamps, they would not be required to be interchangeable. They would, however, have to meet all headlamp performance requirements such as photometry, environmental degradation, and aimability. Thus, under the proposal, a manufacturer seeking to introduce a new integral beam system could do so without the necessity of petitioning for an amendment of Standard No. 108. A petition would be required only if the manufacturer sought a revision of performance specifications.

This proposal to forego regulation of size, shape, and interchangeability could conceivably result in most or all headlamps becoming uniquely designed for specific vehicles, a trend that has been seen with replaceable bulb headlamps. On the other hand, this freedom from regulated interchangeability may result in only a few new designs whose interchangeability would be based on the decisions of lighting or vehicle manufacturers. Or the end result could be a blend of the two. Since the introduction of replaceable bulb headlamps beginning with the 1984 model year, systems in which the interchangeability of the lens/reflector unit is unregulated, NHTSA is unaware of any replacement headlamps that have, in fact, proven incapable of interchangeability with original equipment lamps. Nonetheless, the agency seeks comments on this issue as it relates to the proposed integral beam headlighting systems.

Another aspect of this proposal is the change from a controlled review of new headlighting systems before introduction, to a less restricted review that does not include size, shape, and interchangeability. The present controlled review has delayed the time between development of new headlighting systems and their introduction in the market because of the necessity to file a petition for rulemaking, to have it considered internally by NHTSA, and to afford the public and industry an opportunity to comment on it before NHTSA's final review and publication of an amendment to Standard No. 108. One effect of this process is that of causing a modification of the system petitioned for into an implementable one that is essentially acceptable to all who have commented and who could be affected. NHTSA's proposal to eliminate that portion of the review pertaining to size, shape, and interchangeability and thus the need to petition for such changes, should allow the adoption of systems as originally petitioned for. The benefit would be greater flexibility for vehicle manufacturers in the styling of headlighting systems. Additionally, NHTSA could better direct resources towards areas of greater safety benefit. The effect of deletion of NHTSA's prior review of dimensional aspects would be the reduction of public and industry comment and influence of headlamp dimensions, and the uncertainty of the direction of industry when responding to this potential new freedom.

If the comments to the proposal mitigate against its adoption, manufacturers would have to continue to petition NHTSA for an amendment specifying the dimensions of each new headlighting system and any subsequent dimensional changes needed thereafter. NHTSA therefore seeks comments on the pros and cons of petitioning for design changes.

Finally, under a proposed amendment to Part 575, the consumer information regulation, vehicle manufacturers would be required to provide vehicle purchasers with parts number information for their particular vehicle if the vehicle's headlamp exterior dimensions are not prescribed either directly or indirectly by Standard No. 108. This would apply to all new headlighting systems, both integral beam and replaceable bulb types.

III. Life Expectancy of Headlamps

Standard No. 108 at present is regulatorily inconsistent, specifying average design life requirements for its standardized replaceable light sources, and two of its sealed beam systems, but not for the remaining five sealed beam systems designed to conform to SAE J579c. For regulatory consistency, this agency believes that the standard should either extend average design life requirements to all headlighting systems, or delete them for those presently covered. As the agency noted in its October 1985 notice, other options are to delete longevity requirements but require manufacturers to rate life expectancy on the bulb package, to require that the headlamp last the life of the vehicle, and to retain the existing requirements. The agency believes that the competitive forces of the marketplace will encourage manufacturers to maintain, or improve, the life-expectancy of light sources. Therefore the agency is proposing that all longevity requirements be deleted. However, because life of a light source has an influence on the total number of lamp outages during the life of a vehicle, thus possibly some influence on crash risk as well, NHTSA is requesting comments on whether or not the absence of an average design life requirement would have a discernible effect on the actual life of light sources in headlighting systems. Because filament life and lumen output (and hence photometric performance) are inversely related NHTSA envisions that trade offs could occur, with performance gains for lesser lamp life. With the apparent need of vehicle manufacturers for headlamps with minimum vertical height, low-profile lamps may have to sacrifice some longevity in order to achieve the required minimum photometric specifications. These trade offs have cost, quality, and performance effects on headlighting systems, their manufacturers, and their users. Therefore, NHTSA solicits comment on the proposed deletion of average design life requirements in order to understand more completely how these trade offs may affect safety, thus whether to adopt the proposed deletion, or to pursue another course.

IV. Durability

As a further simplification of headlighting requirements relating to durability and aim retention, NHTSA is proposing deletion of certain portions of SAE J580 DEC86 *Sealed Beam Headlamp Assembly*, which were adopted in the initial standard (SAE J580a, June 1966), and which may no longer be necessary for safety. These deletions include paragraphs 3.3 (vibration test), 6.1.3 (test for 20 cycles of full range aim adjustment), 6.3.1 (test for 20 cycles of retaining ring removal and installation), 6.2 and subparagraphs and 6.5 and subparagraphs (the inward force test and torque deflection test, respectively, except for all headlamps

using externally applied mechanical aimers).

Durability tests exercise a headlighting system's ability to withstand the anticipated environment in service while still providing acceptable roadway illumination. The proposed deletions for 20-cycle aim range and retaining ring installation are deemed to be of little significance to safety. The deletion of inward force and torque deflection is appropriate for headlighting systems which do not use externally applied aimers, since these tests are intended to show resistance to the effects of the weight and application of *external* aimers.

The proposal for deletion of the vibration test, however, is not as straight forward. While vibration testing exercises lamps for resistance to such anticipated on-vehicle vibration effects as broken or cracked lenses, reflectors, light source mountings or aim hardware, the existing vibration test appears archaic, and may not accurately exercise the lamp system for these adverse effects. Despite this, the present test procedure has produced signal lamp failures that were also found in vehicles-in-use. Since this procedure currently applies to all lighting devices, and not just headlighting systems, it is difficult to justify deletion for only headlamps; however, no headlamp vibration test failures have been found to date. Consequently, it is currently not known whether there is a safety benefit from vibration testing of headlighting systems. The agency requests comment on deletion or development of a more correlated vibration performance specification.

Two other durability tests concern NHTSA, the Temperature Cycle Test (numbered S8.6.1 in the Proposal's revised format), and the Impact Test (S8.8). Presently these remain as part of the requirements for headlighting systems since the purpose of these requirements remains valid, however, NHTSA is concerned that the requirements may not truly reflect the real world. The temperature range may be too small in view of the ambient environmental temperatures and underhood temperature extremes that occur in the United States and in today's high temperature engine compartments. The impact energy also appears too low to simulate accurately the actual stone damage that can occur. NHTSA seeks comment on these procedures, and if appropriate, a more correlated set of procedures or performance requirements.

V. Headlamp Aimability

A further aspect of Standard No. 108 to which the agency has turned its attention is headlamp aimability. Currently, headlamps must be capable of mechanical aim using equipment specified by SAE J602, with the inspection criteria specified in SAE J599. However, with the proliferation in sizes and shapes of headlighting systems permissible under Standard No. 108 since 1983 has come a corresponding proliferation in adapters necessary for mechanical aimers to perform their purpose, creating confusion, difficulty, and higher potential for aiming error. The agency is therefore interested in developing a general aiming performance requirement that would permit headlamps to be aimed by means other than use of existing mechanical aimers and lens-mounted aiming pads if the new methods could perform as well as existing mechanical aimers, and if no excessive off-vehicle equipment would be required. One example of a new method for vertical aim inspection would be a spirit level incorporated in the headlamp housing which, when the vehicle attitude was horizontal and the air bubble was centered properly, would indicate proper vertical aim.

Under the proposal, each headlamp would have fiducial marks (or aiming pads if its manufacturer chose to retain its existing design) for the purpose of determining the reference axes to be used for photometric performance testing; such marks would also be the basis for the aiming reference when the headlamp is installed on the vehicle. The headlamp would be installed in the vehicle using a mounting-aiming mechanism incorporating vertical and horizontal aiming adjustments and references. (The proposal refers to this as a vehicle headlamp aiming device, or VHAD). It would be aimable using either conventional off-vehicle mechanical aimers or, should the manufacturer so decide, by on-vehicle aimers which use only a floor slope measurement as the off-vehicle reference.

VI. Consumer Information

The increasing variety of headlamps on the road today and those that may result from the proposed changes to Standard No. 108, may confuse consumers who desire to replace their own headlamps. To aid the consumer in ensuring that replacement headlamps are the equivalent in performance and application to original equipment headlamps, NHTSA is proposing amendments to Part 575, *Consumer Information Regulations*. These proposed changes would require that certain information be made available to vehicle purchasers at the time of purchase of the vehicle. The information would consist of the part or parts numbers of original and replacement headlamps appropriate to the vehicle, and the name or trademark of the lamp manufacturer. NHTSA believes that such consumer information is desirable to assure continued safe headlighting. Consequently, NHTSA is proposing additions to Part 575.4, 575.6, and a new § 575.102 *Headlamps*.

As part of this proposal, NHTSA has used the most recent SAE Standards and Recommended Practices for reference. Many of these updated references include performance or aspects not currently incorporated in Standard No. 108. Consequently, exceptions are stated so that the requirements that are actually proposed are essentially identical to that which currently exist.

Finally, as part of this proposed revision of Standard No. 108, NHTSA is separating the Scope and Purpose sections in line with its practice in a majority of the safety standards and reorganizing the various headlighting requirements into a new section S7 *Headlighting Requirements*. Of necessity, the remaining sections of the standard will have to be renumbered.

Impacts

NHTSA has considered this proposal and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a full regulatory evaluation is required. However, a Preliminary Regulatory Evaluation (PRE) has been placed in the Docket. The proposals are intended to relieve a regulatory burden by affording manufacturers greater flexibility in the design of headlighting systems.

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment. The design and composition of headlamps are not expected to change from those presently in production. However, should this rulemaking result in headlamps or bulbs with a shorter life, there would be a greater demand for replacement headlamps or bulbs and a corresponding increase in materials necessary for their manufacture. This conjecture is speculative.

Additionally, with the movement away from Federal regulation of dimensions for the interchangeability of headlamps, the only source of vehicle-specific replacement headlamps may become the vehicle manufacturer and its authorized dealers, although this also is speculative.

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant impact upon a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions would not be significantly affected since the price of new vehicles and headlamps will be minimally impacted.

The consumer information requirements in this proposal are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these proposed requirements are being submitted to the OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for NHTSA. It is requested that comments sent to the OMB also be sent to the NHTSA rulemaking docket for this proposed action.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the closing date indicated above, will be considered, and will be available for exmination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments on the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Parts 571 and 575

Imports, Motor vehicle safety, Motor vehicles.

The engineer and lawyer primarily responsible for this proposal are Richard Van Inderstine and Taylor Vinson respectively.

In consideration of the foregoing, it is proposed that 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* be amended as follows:

PART 571—[AMENDED]

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

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

2. The text of 49 CFR 571.108 (Paragraphs S1 through S8) would be revised as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

S1. *Scope.* This standard specifies requirements for original and replacement lamps, reflective devices, and associated equipment.

S2. *Purpose.* The purpose of this standard is to reduce traffic accidents and deaths and injuries resulting from traffic accidents, by providing adequate illumination of the roadway, and by enhancing the conspicuity of motor vehicle on the public roads so that their presence is perceived and their signals understood, both in daylight and in darkness or other conditions of reduced visibility.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (except pole trailers and trailer converter dollies), and motorcycles, and to lamps, reflective devices, and associated equipment for replacement of like equipment on vehicles to which this standard applies.

S4. *Definitions.*

"Aiming Reference Plane" means a plane which is perpendicular to the longitudinal axis of the vehicle and tangent to the forward most aiming pad on the headlamp.

"Flash" means a cycle of activation and deactivation of a lamp by automatic means continuing until stopped either automatically or manually.

"Headlamp test fixture" means a device designed to support a headlamp or headlamp assembly in the test position specified in the laboratory tests and whose mounting hardware and components are those necessary to operate the headlamp as installed in a motor vehicle.

"Integral Beam Headlamp" means a headlamp comprising an integral and indivisible optical assembly including lens, reflector, and light source, that is neither a standardized seal beam headlamp designed to conform to paragraph S7.3 nor a replaceable bulb headlamp designed to conform to paragraph S7.5.

"Replaceable bulb headlamp" means a headlamp comprising a bonded lens and reflector assembly and one or two standardized replaceable light sources.

"Seasoning" means a process of energizing the filament of a headlamp, at design voltage, for a period of time equal to 1 percent of average rated laboratory life.

"Standardized replaceable light source" means an assembly of a capsule, base, and terminals that meets the requirements of S7.6.

S5. *Requirements.*

S5.1 *Required motor vehicle lighting equipment.*

S5.1.1 Except as provided in succeeding paragraphs of this S5.1.1, each vehicle shall be equipped with at least the number of lamps, reflective devices, and associated equipment specified in Tables I and III, as applicable. Required equipment shall be designed to conform to the SAE Standards or Recommended Practices

referenced in those tables. Table I applies to multipurpose passenger vehicles, trucks, trailers, and buses, 80 or more inches in overall width. Table III applies to passenger cars and motorcycles and to multipurpose passenger vehicles, trucks, trailers, and buses, less than 80 inches in overall width.

S5.1.1.1 A truck tractor need not be equipped with turn signal lamps mounted on the rear if the turn signal lamps at or near the front are so constructed (double-faced) and so located that they meet the requirements for double-faced turn signals specified in SAE Standard J588e, "Turn Signal Lamps," September 1970.

S5.1.1.2 A truck tractor need not be equipped with any rear side marker devices, rear clearance lamps, and rear identification lamps.

S5.1.1.3 Intermediate side marker devices are not required on vehicles less than 30 feet in overall length.

S5.1.1.4 Reflective material conforming to Federal Specification L-S-300, "Sheeting and Tape, Reflective; Non-exposed Lens, Adhesive Backing," September 7, 1965, may be used for side reflex reflectors if this material as used on the vehicle, meets the performance standards in either Table I or Table IA of SAE Standard J594f, "Reflex Reflectors", January 1977.

S5.1.1.5 The turn signal operating unit on each passenger car, and multipurpose passenger vehicle, truck, and bus less than 80 inches in overall width manufactured on or after January 1, 1973, shall be self-cancelling by steering wheel rotation and capable of cancellation by a manually operated control.

S5.1.1.6 Each stop lamp manufactured to replace a stop lamp that was designed to conform to SAE Standard J586b, *Stop Lamps*, June 1966, may also be designed to conform to J586b. It shall meet the photometric minimum candlepower requirements for Class A red turn signal lamps specified in SAE Standard J575d, *Test for Motor Vehicle Lighting Devices and Components*, August 1967. Each such lamp manufactured for use on a passenger car and on a multipurpose passenger vehicle, truck, trailer or bus less than 80 inches in overall width shall have an effective projected luminous area not less than 3½ square inches. If multiple compartment lamps or multiple lamps are used, the effective projected luminous area of each compartment or lamp shall be not less than 3½ square inches; however, the photometric requirements may be met by a combination of compartments or lamps.

S5.1.1.7 Each turn signal lamp manufactured to replace a turn signal lamp that was designed to conform to SAE Standard J588d, *Turn Signal Lamps*, June 1966, may also be designed to conform to J588d, and shall meet the photometric minimum candlepower requirements for Class A turn signal lamps specified in SAE Standard J575d, *Tests for Motor Vehicle Lighting Devices and Components*, August 1967. Each such lamp manufactured for use on a passenger car and on a multipurpose passenger vehicle, truck, trailer or bus less than 80 inches in overall width shall have an effective projected luminous area not less than 3½ square inches. If multiple compartment lamps or multiple lamps are used, the effected projected luminous area of each compartment or lamp shall be not less than 3½ square inches; however, the photometric requirements may be met by a combination of compartments or lamps. Each such lamp manufactured for use on a multipurpose passenger vehicle, truck, trailer or bus 80 inches or more in overall width shall have an effective projected luminous area not less that 12 square inches. S5.1.1.8 For each motor vehicle less than 30 feet in overall length, the photometric-minimum candlepower requirements for side marker lamps specified in SAE Standard J592e "Clearance, Side Marker, and Identification Lamps", July 1972, may be met for all inboard test points at a distance of 15 feet from the vehicle and on a verticle plane that is perpendicular to the longitudinal axis of the vehicle and located midway between the front and rear side market lamps.

S5.1.1.9 Boat trailers need not be equipped with both front and rear clearance lamps provided an amber (to front) and red (to rear) clearance lamp is located at or near the midpoint on each side of the trailer so as to indicate its extreme width.

S5.1.1.10 Multiple license plate lamps and backup lamps may be used to fulfill the requirements of the SAE Standards applicable to such lamps referenced in Tables I and III.

S5.1.1.11 A parking lamp, tail lamp, stop lamp, or turn signal lamp shall meet the minimum percentage specified in Figure 1a of the corresponding minimum allowable value specified in Figure 1b. The maximum candlepower output of each stop, turn signal, tail and parking lamp shall not exceed that prescribed in figure 1b. The values specified in Figure 1a and Figure 1b are substituted for those specified in Table 1 of the following SAE Standards: J222 *Parking Lamps*, J585e *Taillamps* (maximum at H or above), J585c *Stop Lamps*, and J588e *Turn Signal Lamps*, except that motocycle turn signal lamps need meet only one-half of the minimum photometric values specified in Figure 1b.

S5.1.1.12 A parking lamp, taillamp, stop lamp or turn signal lamp is not required to meet the minimum photometric value at each test point specified in this standard if the sum of the percentages of the minimum candlepower measured at the test points is not less than that specified for each group listed in Figure 1c.

S5.1.1.13 All passenger cars and mutipurpose passenger vehicles, trucks, and buses or less than 80 inches overall width shall be equipped with turn signal operating units designed to complete a durability test of 100,000 cycles.

S5.1.1.14 A trailer that is less than 30 inches in overall width may be equipped with only one of the following lamps and reflective devices, located at or near its verticle centerline: Tail lamp, stop lamp, and rear reflex reflector.

S5.1.1.15 A trailer that is less than 6 feet in overall length, including the trailer tongue, need not be equipped with front side marker lamps and front side reflex reflectors.

S5.1.1.16 A lamp designed to use a type of bulb that has not been assigned a mean spherical candlepower rating by its manufacturer and is not listed in SAE Standard J573d, "Lamp Bulbs and Sealed Units," December 1968, shall meet the applicable requirements of this standard when used with any bulb of the type specified by the lamp manufacturer, operated at the bulb's design voltage. A lamp that contains a sealed-in bulb shall meet these requirements with the bulb operated at the bulb's design voltage.

S5.1.1.17 Except for a lamp having a sealed-in bulb, a lamp manufactured on or after January 1, 1974, shall meet the applicable requirements of this standard when tested with a bulb whose filament is positioned within ±.010 inch of the nominal design position specified in SAE Standard J573d, "Lamp Bulbs and Sealed Units," December 1968, or specified by the bulb manufacturer.

S5.1.1.18 A backup lamp is not required to meet the minimum photometric values at each test point specified in Table I of SAE Standard J593c, *Backup Lamps*, February 1968 if the sum of the candlepower measured at the test points within each group listed in Figure 2 is not less than the group totals specified in that figure.

S5.1.1.19 Variable load turn signals flashers shall comply with voltage drop and durability requirements with the maximum design load connected and snall comply with starting time, flash

rate, and percent current "on" time requirements both with the minimum and with the maximum design load connected.

S5.1.1.20 The lowest voltage drop for turn signals flashers and hazard warning signal flashers measured between the input and load terminals shall not exceed 0.8 volt.

S5.1.1.21 A motor-driven cycle whose speed is attainable in 1 mile is 30 mph or less need not be equipped with turn signal lamps.

S5.1.1.22 A motor-driven cycle whose speed attainable in 1 mile is 30 mph or less may be equipped with a stop lamp whose effective projected luminous lens area is not less than 3½ square inches and whose photometric output for the groups of test points specified in Figure 1 is at least one-half of the minimum values set forth in that figure.

S5.1.1.23 Each tail lamp manufactured to replace a taillamp designed to conform to SEA Standard J585d, *Tail Lamps*, August 1970, may also be designed to conform to J585d.

S5.1.1.24 Each turn signal lamp manufactured to replace a turn signal lamp (on a motorcycle) that was designed to conform to SAE Standard J588d, *Turn Signal Lamps*, June 1966, may also be designed to conform to J588d.

S5.1.1.25 Each turn signal lamp on a motorcycle manufactured on and after January 1, 1973, shall have an effective projected luminous area not less than 3½ square inches.

S5.1.1.26 Note 6 of Table 1 in SAE Standard J588e, *Turn Signal Lamps*, September 1970, does not apply. A stop lamp that is not optically combined with a turn signal lamp shall remain activated when the turn signal is flashing.

S5.1.1.27 Each passenger car manufactured on or after September 1, 1985, shall be equipped with a high-mounted stoplamp which:

(a) Shall have an effective projected luminous area not less than 4½ square inches.

(b) Shall have a signal visible to the rear through a horizontal angle from 45 degrees to the left to 45 degrees to the right of the longitudinal axis of the vehicle.

(c) Shall have the minimum photometric values in the amount and location listed in Figure 10, instead of those in Table 1 of SAE Recommended Practice J186a, *Supplemental High-Mounted Stop and Rear Turn Signal Lamps*, September 1977.

(d) Need not meet the requirements of paragraphs 3.1.6 Moisture Test, 3.1.7 Dust Test, and 3.1.8 Corrosion Test of SAE Recommended Practice J186a if it is mounted inside the vehicle.

(e) Shall provide access for convenient replacement of the bulb without the use of special tools.

S5.1.1.28 A passenger car manufactured between August 1, 1984, and September 1, 1985, may be equipped with a high-mounted stop lamp that conforms to S5.3.1.8.

S5.1.1.29 Instead of the headlamps specified by Table III, a motorcycle may be equipped with one half of any headlighting system specified in S7 which provides both a full upper beam and full lower beam, and where more than one lamp must be used, the lamps shall be mounted vertically, with the lower beam as high as practicable. When installed on a motorcycle such half system need not meet the aiming requirements specified in S7.

S5.1.2 Plastic materials used for optical parts such as lenses and reflectors shall conform to SAE Recommended Practice J576c, May 1970, except that:

(a) Plastic lenses used for inner lenses or those covered by another material and not exposed directly to sunlight shall meet the requirements of paragraphs 3.4 and 4.2 of SAE J576c, when covered by the outer lens or other material;

(b) After the outdoor exposure test, the haze and loss of surface luster of plastic materials used for lamp lenses shall not be greater than 30 percent haze as measured by ASTM–1003–61, *Haze and Luminous Transmittance of Transparent Plastic;* and

(c) After the outdoor exposure test, plastic materials used for reflex reflectors shall meet the appearance requirements of paragraph 4.2.2 of SAE J576c.

S5.1.3 No additional lamp, reflective device or other motor vehicle equipment shall be installed that impairs the effectiveness of lighting equipment required by this standard.

S5.1.4 Each school bus shall be equipped with a system of either:

(a) Four red signal lamps designed to conform to SAE Standard J887, *School Bus Red Signal Lamps*, July 1964, and installed in accordance with that standard; or

(b) Four red signal lamps designed to conform to SAE Standard J887, *School Bus Red Signal Lamps*, July 1964, and four amber signal lamps designed to conform to that standard, except for their color, and except that their candlepower shall be at least 2½ times that specified for red signal lamps. Both red and amber lamps shall be installed in accordance with SAE Standard J887, except that:

(i) Each amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus; and

(ii) The system shall be wired so that the amber signal lamps are activated only by manual or foot operation, and if activated, are automatically deactivated and the red signal lamps automatically activated when the bus entrance door is opened.

S5.1.5 The color in all lamps, reflective devices, and associated equipment to which this standard applies shall comply with SAE Standard J578c, *Color Specification for Electirc Signal Lighting Devices*, February 1977.

S5.2 *Other requirements.*

S5.2.1 The words "it is recommended that," "recommendations," or "should be" appearing in any SAE Standard or Recommended Practice referenced or subreferenced in this standard shall be read as setting forth mandatory requirements, except that the aiming pads on the lens face and the black area surrounding the signal lamp recommended in SAE Standard J887, *School Bus Red Signal Lamps*, July 1964, are not required.

S5.2.2 The words "Type 1 (5¾"), "Type 2 (5¾"), "Type 2 (7"), "Type 1A," "Type 2A," and "Type 2B" appearing in any SAE Standard or Recommended Practice reference or subreferenced in this standard shall also be read as setting forth requirements respectively for the following types of headlamps: 1C1, 2C1, 2D1, 1A1, 2A1, and 2B1.

S5.3 *Location of required equipment.*

S5.3.1 Except as provided in succeeding paragraphs of S5.3.1, each lamp, reflective device, and item of associated equipment shall be securely mounted on a rigid part of the vehicle other than glazing that is not designed to be removed except for repair, in accordance with the requirements of Table I or III and in location specified in Table II (multipurpose passenger vehicles, trucks, trailers, and buses 80 or more inches in overall width) or Table IV (all passenger cars, and motorcycles, and multi-purpose passenger vehicles, truck, trailers and buses less than 80 inches in overall width), as applicable.

S5.3.1.1 Except as provided in S5.3.1.1.1, each lamp and reflective device shall be located so that it meets the visibility requirements specified in any applicable SAE Standard or Recommended Practice. In addition, no part of the vehicle shall prevent a parking lamp, taillamp, stop lamp, turn sigal lamp, or backup lamp from meeting its photometric output at any applicable group of test points specified in Figures

1c and 2, or prevent any other lamp from meeting the photometric output at any test point specified in any applicable SAE Standard or Recommended Practice. However, if motor vehicle equipment (e.g., mirrors, snow plows, wrecker booms, backhoes, and winches) prevents compliance with this paragraph by any required lamp or reflective devices, an auxiliary lamp or device meeting the requirements of this paragraph shall be provided.

S5.3.1.1.1 Clearance lamps may be mounted at a location other than on the front and rear if necessary to indicate the overall width of a vehcile, or for protection from damage during normal operation of the vehicle, and at such a location they need not be visible at 45 degrees inboard.

S5.3.1.2 On a truck tractor, the red rear reflex reflectors may be mounted on the back of the cab, at a minimum height not less than 4 inches above the height of the rear tires.

S5.3.1.3 On a trailer, the amber front side reflex reflectors and amber front side marker lamps may be located as far forward as practicable exclusive of the trailer tongue.

S5.3.1.4 When the rear identification lamps are mounted at the extreme height of a vehicle, rear clearance lamps need not meet the requirement of Table II that they be located as close as practicable to the top of the vehicle.

S5.3.1.5 The center of the lens referred to in SAE Standard J593c, *Backup Lamps*, February 1968, is the optical center.

S5.3.1.6 On a truck tractor, clearance lamps mounted on the cab may be located to indicate the width of the cab, rather than the overall width of the vehicle.

S5.3.1.7 The requirement that there be not less than 4 inches between a front turn signal lamp and a low beam headlamp, specified in SAE Standard J588e, *Turn Signal Lamps*, September 1970, shall not apply if the sum of the candlepower values of the turn signal lamp measured at the test points within each group listed in Figure 1c is not less than two and one-half times the sum specified for each group for yellow turn signal lamps.

S5.3.1.8 Each high-mounted stoplamp on a passenger car manufactured on or after September 1, 1985, shall be mounted with its center on the vertical centerline of the passenger car as the car is viewed from the rear. The lamp may be mounted at any position on the centerline, including the glazing. If the lamp is mounted inside the vehicle, means shall be provided to minimize reflections from the light of the lamp upon the rear window glazing that might be visible to the driver when viewed directly, or indirectly in the rearview mirror. If the lamp is mounted below the rear window, no portion of the lens shall be lower than 6 inches below the rear window on convertibles, or 3 inches on other passenger cars.

S5.4 *Equipment combinations.*

S5.4.1 Two or more lamps, reflective devices, or items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, except that no clearance lamp may be combined optically with any taillamp or identification lamp, and no high-mounted stoplamp shall be combined with any other lamp or reflective device.

S5.5 *Special wiring requirements.*

S5.5.1 Each vehicle shall have a means of switching between lower and upper beams that conforms to SAE Recommended Practice J564a *Headlamp Beam Switching*, April 1964 or to SAE Recommended Practice J565b, *Semi-Automatic Headlamp Beam Switching Devices*, February 1969. Except as provided in S5.5.8, the lower and upper beams shall not be energized simultaneously except momentarily for temporary signaling purposes or during switching between beams.

S5.5.2 Each vehicle shall have a means for indicating to the driver when the upper beams of the headlamps are on that conforms to SAE Recommended Practice J564a, April 1964, except that the signal color need not be red.

S5.5.3 The taillamps on each vehicle shall be activated when the headlamps are activated in a steady-burning state.

S5.5.4 The stoplamps on each vehicle shall be activated upon application of the service brakes. The high-mounted stoplamp on each passenger car shall be activated only upon application of the service brakes.

S5.5.5 The vehicular hazard warning signal operating unit on each vehicle shall operate independently of the ignition or equivalent switch, and when activated, shall cause to flash simultaneously sufficient turn signal lamps to meet, as a minimum, the turn signal lamp photometric requirements of this standard.

S5.5.6 Each vehicle equipped with a turn signal operating unit shall also have an illuminated pilot indicator. Failure of one or more turn signal lamps to operate shall be indicated in accordance with SAE Standard J588e, *Turn Signal Lamps*, September 1970, except where a variable-load turn signal flasher is used on a truck, bus, or multipurpose passenger vehicle 80 or more inches in overall width, on a truck that is capable of accommodating a slide-in camper, or on any vehicle equipped to tow trailers.

S5.5.7 On all passenger cars, and motorcycles, and multipurpose passenger vehicles, trucks, and buses of less than 80 inches overall width:

(a) When the parking lamps are activated, the taillamps, license plate lamps, and side marker lamps shall also be activated; and

(b) When the headlamps are activated in a steady-burning state, the taillamps, parking lamps, license plate lamps and side marker lamps shall also be activated.

S5.5.8 On a motor vehicle equipped with a headlighting system designed to conform to the photometry of Figure 15, the lamps marked "L" or "LF" may be wired to remain permanently activated when the lamps marked "U" or "UF" are activated.

S5.5.9 The wiring harness or connector assembly of each headlamp system shall be designed so that only those filaments necessary for meeting lower beam photometrics are energized when the beam selector switch is in the lower beam position, and that only those filaments necessary for meeting upper beam photometrics are energized when the beam selector switch is in the upper beam position.

S5.5.10 The wiring requirements for lighting equipment in use are:

(a) Turn signal lamps, hazard warning signal lamps, and school bus warning lamps shall be wired to flash;

(b) High-mounted stop lamps on passenger cars manufactured on or after August 1, 1984, but before September 1, 1986, may flash when the hazard warning system is activated.

(c) Headlamps and side marker lamps may be wired to flash for signaling purposes;

(d) A motorcycle headlamp may be wired to allow either its upper beam or its lower beam, but not both, to modulate from a higher intensity to a lower intensity in accordance with section S5.6;

(e) All other lamps shall be wired to be steady-burning.

S5.6 *Motorcycle headlamp modulation system.*

S5.6.1 A headlamp on a motorcycle may be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity provided that:

(a) The rate of modulation shall be 240 ± 40 cycles per minute.

(b) The headlamp shall be operated at maximum power for 50 to 70 percent of each cycle.

(c) The lowest intensity at any test point shall be not less than 17 percent of

the maximum intensity measured at the same point.

(d) The modulator switch shall be wired in the power lead of the beam filament being modulated and not in the ground side of the circuit.

(e) Means shall be provided so that both the lower beam and upper beam remain operable in the event of a modulator failure.

(f) The system shall include a sensor mounted with the axis of its sensing element perpendicular to a horizontal plane. Headlamp modulation shall cease whenever the level of light emitted by a tungsten filament light operating at 3000° Kelvin is either less than 270 lux (25 foot-candles) of direct light for upward pointing sensors or less than 60 lux (5.6 foot-candles) of reflected light for downward pointing sensors. The light is measured by a silicon cell type light meter that is located at the sensor and pointing in the same direction as the sensor. A Kodak Gray Card (Kodak R-27) is placed at ground level to simulate the road surface in testing downward pointing sensors.

(g) When tested in accordance with the test profile shown in Figure 9, the voltage drop across the modular when the lamp is on at all test conditions for 12 volt systems and 6 volt systems shall not be greater than .45 volt. the modulator shall meet all the provisions of the standard after completion of the test profile shown in Figure 9.

(h) Means shall be provided so that both the lower and upper beam function at design voltage when the headlamp control switch is in either the lower or upper beam position when the modulator is off.

S5.6.2(a) Each motorcycle headlamp modulator not intended as original equipment, or its container, shall be labeled with the maximum wattage, and the minimum wattage appropriate for its use. Additionally, each such modulator shall comply with S5.6.1 (a) through (g) when connected to a headlamp of the maximum rated power and a headlamp of the minimum rated power and shall provide means so that the modulated beam functions at design voltage when the modulator is off.

(b) Instructions, with a diagram, shall be provided for mounting the light sensor including location on the motorcycle, distance above the road service, and orientation with respect to the light.

S5.7 *Replacement Equipment.*

S5.7.1 Each lamp, reflective device, or item of associated equipment manufactured to replace any lamp, reflective device, or item of associated equipment on any vehicle to which this standard applies, shall be designed to conform with this standard.

S5.7.2 Each lamp, reflective device, or item of associated equipment to which section S5.7.1 applies may be labled with the symbol DOT, which shall constitute a certification that it conforms to applicable Federal motor vehicle safety standards.

S6. *Subreferenced SAE Standards and Recommended Practices.*

S6.1 SAE Standards and Recommended Practices subreferenced by the SAE Standards and Recommended Practices included in Tables I and III and paragraphs S5.1.4 and S5.5.1 are those published in the 1970 edition of the SAE Handbook, except that the SAE standard referred to as "J575" is J575e, *Tests for Motor Vehicle Lighting Devices and Components,* August 1970, for stoplamps, taillamps, and turn signal lamps designed to conform to SAE Standards J586c, J585d/J585e, and J588e, respectively, and for high-mounted stoplamps designed to conform to SAE Recommended Practice J186a. The reference in J585e to J256 does not apply. For headlamps, the version of SAE Standard J575 is JUN80, and the version of SAE Standard J602 is OCT80.

S6.2 Requirements of SAE Standards incorporated by reference in this standard, other than J576b and J576c, do not include test for warpage of devices with plastic lenses.

S7 *Headlighting requirements.*

S7.1 Each passenger car, multipurpose passenger vehicle, truck, and bus shall be equipped with a headlighting system designed to conform to the requirements of S7.3, S7.4, or S7.5

S7.2 The lens of each headlamp shall be marked with the symbol "DOT", either horizontally or vertically, which shall consititute a certification that the headlamp is designed to conform to all applicable Federal motor vehicle safety standards.

S7.3 *Sealed beam headlighting system.* A sealed beam headlighting system shall be designed to meet the requirements of one of the following subparagraphs of S7.3.2 through S7.3.9. In references to Figures in SAE J1383 for headlamp dimensional requirements, only those dimensions marked "I" for interchangeability are applicable.

S7.3.1 The lens of each sealed beam headlamp designed to conform to S7.3.2 through S7.3.9 shall be marked according to paragraph 5.4.3 through 5.4.5 of SAE Standard J1383 APR85 *Performance Requirements for Motor Vehicle Headlamps.*

S7.3.2 *Type A headlighting system.* A Type A headlighting system consists of two Type 1A1 and two Type 2A1 headlamps and associated hardware, which are designed to conform to the following requirements:

(a) SAE Standard J1383 APR85 *Performance Requirements for Motor Vehicle Headlamps,* with the following exceptions:

(1) Paragraphs 1, 2.1.2, 2.8.2, 3, 4.1.1, 4.1.3, 4.4, 4.6, 4.8 through 4.18, 5.1.1, 5.1.3, 5.1.5, 5.1.7 through 5.1.16, 5.2.2, 5.3.5, 5.4.1, 5.4.2, and 6 through 6.4 do not apply.

(2) In paragraph 5.3.2, the words "and retaining rings" are omitted.

(3) In paragraphs 4.5.2 and 5.1.6, the words "either Table 1 or Table 2 of SAE J579 DEC84 as appropriate" are substituted for "Table 3."

(b) SAE Standard J580 DEC86 *Sealed Beam Headlamp Assembly* (except paragraphs 3, 4.1.1, 5.1.1.1, 5.1.2.3, and the second sentence of 5.1.6; in 5.2.1, delete the words "and retaining rings"; the correct reference is SAE J1383 Figure 6, 9, 12 and 14.

(c) The maximum wattage at 12.8 volts (design voltage): Single filament headlamp, 55 watts on the upper beam; dual filament headlamp, 43 watts on the upper beam and 65 watts on the lower beam.

S7.3.3 *Type B headlighting system.* A Type B headlighting system consists of two Type 2B1 headlamps and associated hardware, which are designed to conform to the following requirements:

(a) The requirements of paragraphs S7.3.2(a) and (b)

(b) The maximum wattage at 12.8 volts (design voltage): 70 watts on the upper beam and 60 watts on the lower beam.

S7.3.4 *Type C headlighting system.* A Type C headlighting system consists of two Type 1C1 and two Type 2C1 headlamps and associated hardware, which are designed to conform to the requirements of paragraph S7.3.2(a) through (c).

S7.3.5 *Type D headlighting system.* A Type D headlighting system consists of two Type 2D1 headlamps and associated hardware, which are designed to conform to the requirements of paragraph S7.3.3(a) and (b).

S7.3.6 *Type E headlighting system.* A Type E headlighting system consists of two Type 2E1 headlamps and associated hardware, which are designed to conform to the requirements of paragraph S7.3.3(a) and (b).

S7.3.7 *Type F headlighting system.* A Type F headlighting system consists of two Type UF and two Type LF headlamps and associated hardware, which are designed to conform to the following requirements:

(a) Figures 11, 12, 13, and 14 as appropriate.

(b) The photometric requirements of Figure 15 of this standard. A reaim tolerance of +/− ¼ degree is allowed for any test point on the Type LF lamp when tested alone, and such a tolerance is not allowed on the Type UF lamp when tested alone. For the test point 10U–90U, measurement shall be from the normally exposed surface of the lens face.

(c) SAE Standard J1383 APR85 *Performance Requirements for Motor Vehicle Headlamps,* Sections 2.4, 2.5, 2.6, 4.1, and 4.1.4.

(d) When tested in accordance with section (c), the mounted assembly (either Type UF or Type LF headlamps, respective mounting ring, aiming ring, and aim adjustment mechanism) shall be designed to conform to the requirements of Figure 15 for upper or lower beams respective without reaim when any conforming Type UF or LF headlamp is tested and replaced by another conforming headlamp of the same Type.

(e) SAE J580 DEC86 *Sealed Beam Headlamp Assembly* with the following exceptions:

(1) Section 2.2 Mounting Ring reads: "the adjustable ring upon which the sealed beam unit is mounted and which forces the sealed beam unit to seat against the aiming ring when assembled into a sealed beam assembly."

(2) The definition "2.3 Aiming Ring" reads: "The clamping ring that retains the sealed beam unit against the mounting ring, and that provides an interface between the unit's aiming/seating pads and the headlamp aimer adapter (locating plate)."

(3) Section 4.1.1 Vibration Test does not apply.

(4) Section 5.1.1.1 does not apply.

(5) Section 5.1.2.1 reads: "When the headlamp assembly is tested in the laboratory, a minimum aiming adjustment of +/− 2.5 degrees shall be provided in the horizontal plane and +/− 4 degrees in the vertical plane."

(6) Section 5.1.2.2 concludes: ". . . through an angle of +/− 2.5 degrees and +/− 4 degrees respectively."

(7) Section 5.1.6 is retitled "Retaining Ring/Aiming Ring Tests," and add: "92 x 150 mm . . . . . 0.340 in (8.6 mm)."

(8) Figures 2, 3, and 4 do not apply, and the reference to them in section 4.5 is replaced by "Figure 16, Deflectometer, of Federal Motor Vehicle Safety Standard No. 108."

(f) A lens for a Type F headlamp incorporating an upper beam shall be labeled "UF". A lens for a Type F headlamp incorporating a lower beam shall be labeled "LF". The face of letters, numbers, or other symbols molded on the surface of the lens shall not be raised more than 0.020 in (0.5 mm), and shall be placed no closer to the photometric center of the lens than 2.75 in. (70 mm.). The marking shall be molded in the lens and shall be not less than ¼ in. (6.35 mm.) in size.

(g) The maximum wattage at 12.8 volts (design voltage): 70 watts on the upper beam and 60 watts on the lower beam.

(h) Type F headlamps may be mounted on common or parallel seating and aiming planes to permit simultaneous aiming of both headlamps provided that or when tested with any conforming Type UF and LF headlamps according to Section S10:

(1) The assembly (consisting of the Type UF and LF headlamps, mounting rings, the aiming/seating rings, and aim adjustment mechanism), shall be designed to conform to the test point values of Figure 15.

(2) There shall be no provision for adjustment between the common or parallel aiming and seating planes of the two lamps.

S7.3.8 *Type G headlighting system.* A Type G headlamp system consists of two Type 1G1 headlamps and two Type 2G1 headlamps each of which is designed to conform to the following requirements:

(a) Figures 18 and 21.

(b) SAE Standard J1383 APR85 *Performance Requirements for Motor Vehicle Headlamps* (except paragraphs 1, 2.1.2, 2.8.2, 3, 4.1.1, 4.1.3, 4.4, 4.6, 4.8 through 4.18, 5.1.1, 5.1.3, 5.1.5 through 5.1.16, 5.2.2, 5.3.5 through 6.4). In paragraph 5.3.2 the words "and retaining rings" are omitted. In paragraph 4.5.2, the words "either Table 1 or Table 2 of SAE J579 DEC84, as appropriate" are substituted for the words "Table 3."

(c) SAE Standard J580 DEC86 *Sealed Beam Headlamp Assembly,* with the following exceptions:

(1) Sections 2.2, 2.3, 4.1.1, 5.1.1.1, 5.1.2.3, 5.1.6, and 5.2.1.

(2) Section 4.5 reads: "*Torque Deflection Test.* The headlamp assembly to be tested shall be mounted in the designed vehicle position and set at nominal aim (0.0). A special adapter (Figure 22) for the deflectometer (Figure 3) shall be clamped onto the headlamp assembly. A torque of 20 in/lbs (2.25 N-m) shall be applied to the headlamp assembly through the deflectometer, and a reading on the thumb wheel shall be taken. The torque shall be removed and a second reading on the thumb wheel shall be taken."

(d) The maximum wattage at 12.8 volts (design voltage) for the 1G1 and 2G1 upper beam is 55 watts and 43 watts respectively; for the 2G1 lower beam, 65 watts.

(e) A lens for a Type G headlamp incorporating only part of an upper beam shall be labeled 1G1. A lens for a Type G headlamp incorporating both part of an upper beam and a lower beam shall be labeled 2G1. The face of letters, numbers, or other symbols molded on the surface of the lens shall not be raised more than 0.020 in. (0.5 mm.), and shall be placed no closer to the geometric center of the lens than 2.75 in. (70 mm.). The marking shall be molded in the lens and shall not be less than ¼ in. (6.35 mm) in size.

S7.3.9 *Type H headlighting system.* A Type H headlamp system consisting of two Type 2H1 headlamps and associated hardware, which are designed to conform to the following requirements:

(a) Paragraph S7.3.8(a) through (c).

(b) The maximum wattage at 12.8 volts (design voltage): 70 watts on the upper beam and 60 watts on the lower beam.

(C) A lens for a Type H headlamp incorporating both and upper beam and a lower beam shall be labeled 2H1. The face of letters, numbers, or other symbols molded on the surface of the lens shall not be raised more than 0.020 in. (0.5 mm), and shall be placed no closer to the geometric center of the lens than 2.75 in. (70 mm.) The marking shall be molded in the lens and shall be not less than ¼ in. (6.35 mm) in size.

S7.4 *Integral Beam Headlighting System.* An integral beam headlighting system shall be designed to conform to the following requirements:

(a) Each integral beam headlamp shall be marked according to paragraph 5.4.1 and 5.4.2 of SAE Standard J1383 APR 85.

(b) The system shall provide in total not more than two upper beams and two lower beams of the performance described in either Figure 15, Figure 17, or Table 1 or Table 2 of SAE J579 DEC 84 *Sealed Beam Headlamp Units for Motor Vehicles.*

(c) In a four-headlamp system, each upper beam headlamp and each lower beam headlamp shall be designed to conform to the photometrics of either Figure 15, or Table 2 of SAE J579 DEC84.

(d) In a two-headlamp system, each headlamp shall be designed to conform to the photometrics of Figure 17, or Table 1 of SAE J579 DEC84.

(e) In a system in which there is more than one headlamp providing a lower beam as shown in Figure 15, and/or more than one headlamp providing an upper beam as shown in Figure 15, each headlamp shall be designed to meet the photometric performance requirements

based upon the following mathematical expression: conforming test point value=2(Figure 15 test point value)/ total number of lower or upper beam contributors, as appropriate, in the system. Table 1 and Table 2 of SAE J579 DEC84 shall not be used for these systems, nor shall Figure 17.

(f) The lower and upper beams shall be provided as follows where each headlamp contains two light sources:

(1) The lower beam shall be provided either by the most outboard light source (or the uppermost if arranged vertically), or by all light sources.

(2) The upper beam shall be provided either by the most inboard light source (or the lowermost if arranged vertically), or by all light sources.

(g) The lower and upper beams shall be provided only as follows where each headlamp contains a single filament:

(1) The lower beam shall be provided by the most outboard headlamps (or the uppermost if arranged vertically), and the lens of each such hadlamp shall be permanently marked with the letter "L."

(2) The upper beam shall be provided by the most inboard headlamps (or lowermost if arranged vertically), and the lens of each such headlamp shall be permanently marked with the letter "U."

(h) A tolerance of +/−¼ degree reaim tolerance during photometric performance tests is permitted for any headlamp, however, no reaim tolerance is permitted for any headlamp marked "U," which is designed to meet Figure 15. The test point 1OU–9OU shall be measured from the normally exposed surface of the lens face.

(i) A headlamp designed to meet Figure 15 may be mounted in an assembly that has common or parallel seating planes, for the individual lamps to permit simultaneous aiming of the beam(s) contributors, provded that with any complying contributor the assembly complete with all lamps meets the appropriate photometric requirements of Figure 15, when tested in accordance with S10. All other integral beam headlamps not designed to meet Figure 15 shall be mounted and aimed separately.

(j) Each integral beam headlamps system shall be designed to conform to the applicable photometric performance requirements in subsections (a) through (d) of this section when tested in accordance with Sections 4.1 and 4.1.4 of SAE Standard J1383 with any headlamp intended for use in such system. The term "aiming plane" means "aiming reference plane," or the aiming references as established by the manufacturer as required in paragraph S7.7.1.

(k) The system shall be aimable in accordance with the requirements of paragraph S7.7, and shall incorporate headlamps having common or parallel mounting and aiming planes, if the headlamps do not have both an integral mounting and aiming mechanism and a Vehicle Headlamp Aiming Device as described in paragraph S7.7.5.2.

(l) A headlamp with a glass lens need not meet the following tests of the paragraphs specified: abrasion resistance (S8.2), chemical resistance (S8.3), and impact (S8.8). If, in addition to a glass lens, the headlamp uses a non-plastic reflector, it need not meet the internal heat test of paragraph S8.6.2. A headlamp of sealed design as verified in paragraph S8.9 *Sealing* need not meet the following tests of the paragraphs specified: corrosion (S8.4), dust (S8.5), and humidity (S8.7), however, the headlamp shall meet the requirments of paragraphs 4.1, 4.1.2, 4.4 and 5.1.4 for corrosion and connector of SAE Standard J580 DEC86 *Sealed Beam Headlamp Assembly.*

(m) When tested according to any of the procedures indicated in subparagraphs (1) through (7) each headlamp shall meet the appropriate requirement:

(1) After an abrasion test conducted in accordance with paragraph S8.2, the headlamp shall meet the photometric requirements applicable to the headlamp system under test.

(2) After a chemical resistance test involving exposure to any of the fluids listed in paragraph S8.3, there shall be no surface deterioration, coating delamination, fractures, deterioration of bonding materials, color bleeding or color pickup visible without magnification, and the headlamp shall meet the photometric requirements applicable to the headlamp system under test.

(3) After a corrosion test conducted in accordance with paragraph S8.4 there shall be no evidence of external or internal corrosion or rust visible without magnification. Loss of adhesion of any applied coating shall not occur more than 0.125 in. (3.2 mm) from any sharp edge on the inside or outside. Corrosion may occur on terminals only if the current produced during the test of paragraph S8.4(c) is not less than 9.7 amperes.

(4) After a dust test conducted in accordance with paragraph S8.5, the headlamp shall meet the photometric requirements applicable to the headlamp system under test.

(5) The headlamp shall first meet the requirements of subparagraph (i) and then those of subparagraph (ii).

(i) After a temperature cycle test conducted in accordance with paragraph S8.6.1, the headlamp shall show no evidence of delamination, fractures, entry of moisture or deterioration of bonding material, color bleeding, warpage or deformation visible without magnification or lens warpage greater than .118 in (3 mm) when measured parallel to the optical axis at the point of intersection of the axis of each light source with the exterior surface of the lens, and it shall meet the photometric requirements applicable to the headlamp system under test.

(ii) After an internal heat test conducted in accordance with paragraph S8.6.2, there shall be no lens warpage greater than .118 in (3 mm) when measured parallel to the optical axis at the point of intersection of the axis of each light source with the exterior surface of the lens, and it shall meet the photometric requirements applicable to the headlamp system under test.

(6) After a humidity test conducted in accordance with paragraph S8.7, the inside of the headlamp shall show no evidence of delamination or moisture, fogging or condensation visible without magnification, and the headlamp shall meet the photometric requirements applicable to the headlamp system under test.

(7) After an impact test on a headlamp with a plastic lens, conducted in accordance with paragraph S8.8, there shall be no fracture of the adhesion of the lens coating or delamination of materials visible without magnification, and the lens shall not be broken, cracked, or chipped.

(n) Each headlamp shall be marked in compliance with § 575.6 of this chapter.

S7.5 *Replaceable Bulb Headlamp System.* Each replaceable bulb headlamp system shall be designed to conform to the following requirements:

(a) The system shall provide only two lower beams and two upper beams and shall incorporate no more than two standardized replaceable light sources in each headlamp.

(b) The photometrics of Table 1 of SAE Standard J579 DEC84 *Sealed Beam Headlamp Units for Motor Vehicles,* if the system is equipped only with HB1 light source, using any tupe HB1 light source.

(c) The photometrics of Figure 15 or Figure 17 using any standardized replaceable light source of the type intended for use in such system.

(d) The test requirements of sections 4.1 and 4.1.4 of SAE J1383 APR85, using the photometric requirements specified

in (a) through (c). The term "aiming plane" means "aiming reference plane," fiducial marks, or aiming references established by the manufacturer as required in paragraph S7.7.1.

(e) For a headlamp equipped with one or two Type HB1 light sources, the following requirements apply:

(1) There shall be no mechanism that allows adjustment of an individual light source or adjustment of reflector aim on a headlamp with two light sources.

(2) The lower and upper beams of a headlamp system consisting of two lamps, each containing two light sources, shall be provided as follows:

(i) The lower beam shall be provided in one of the following ways:

(A) By the outboard light source (or the upper one if arranged vertically) designed to conform to the lower beam requirements of Table 1 of SAE Standard J579 DEC84 or

(B) By both light sources, designed to conform to the lower beam requirements of Table 1 of SAE Standard J579 DEC84.

(ii) The upper beam shall be provided in one of the following ways:

(A) By the inboard light source (or the lower one if arranged vertically) designed to conform to the upper beam requirements of Table 1 of SAE Standard J579 DEC84 or

(B) By both light sources, designed to conform to the upper beam requirements of Table 1 of SAE Standard J579 DEC84.

(iii) Each such headlamp manufactured as replacement motor vehicle equipment shall be designed to meet the requirements of paragraphs (f)(2)(i) and (f)(2)(ii) of this section.

(3) The lower and upper beams of a headlamp system consisting of four lamps, each containing a single light source, shall be provided as follows:

(i) The lower beam shall be provided by the outboard lamp (or upper one if arranged vertically), designed to conform to the lower beam requirements of Table 1 of SAE Standard J579 DEC84. The lens of each such headlamp shall be marked with the letter "L."

(ii) The upper beam shall be provided by the inboard lamp (or lower one if arranged vertically), designed to conform to the upper beam requirements of Table 1 of SAE Standard J579 DEC84. The lens of each such headlamp shall be marked with the letters "U."

(iii) Each such headlamp manufactured as replacement motor vehicle equipment shall be designed to meet the requirements of paragraphs (f)(3)(i) and (f)(3)(ii) of this section.

(f) The following requirements apply to a headlamp system equipped with Type HB3 and HB4, HB1 and HB3, or HB1 and HB4 light sources:

(1) There shall be no mechanism that allows adjustment of an individual light source, or adjustment of reflector aim on a headlamp with two light sources.

(2) The lower and upper beams of a headlamp system consisting of two lamps, each containing two light sources (Type HB3 and HB4, or Type HB1 with HB3 or HB4) shall be provided only as follows:

(i) The lower beam shall be provided in one of the following ways:

(A) By the outboard light source (or the uppermost if arranged vertically) designed to conform to the lower beam requirements of Figure 17; or

(B) By both light sources, designed to conform to the lower beam requirements of Figure 17.

(ii) The upper beam shall be provided in one of the following ways:

(A) By the inboard light source (or the lower one if arranged vertically) designed to conform to the upper beam requirements of Figure 17; or

(B) By both light sources, designed to conform to the upper beam requirements of Figure 17.

(3) The lower and upper beams of a headlamp system consisting of four lamps, using Type HB3 and HB4, HB1 and HB3, or HB1 and HB4 light sources, each containing only a single light source, shall be provided only as follows:

(i) The lower beam shall be produced by the outboard lamp (or upper one if arranged vertically), designed to conform to the lower beam requirements of Figure 15. The lens of each such headlamp shall be permanently marked with the letter "L."

(ii) The upper beam shall be produced by the inboard lamp (or lower one if arranged vertically), designed to conform to the upper beam requirements of Figure 15. The lens of each such headlamp shall be marked with the letter "U."

(4) A ¼ degree reaim tolerance is permitted for any test point. The test point 10U–90U shall be measured from the normally exposed surface of the lens face.

(g) Each lens reflector unit manufactured as replacement equipment shall be designed to conform to the requirements of paragraphs (f) and (g) of this section when any standardized replacement light source appropriate for such unit is inserted in it.

(h) The lens of each replacement bulb headlamp shall be permanently marked as follows:

(i) With the symbol DOT horizontally or vertically which shall constitute certification that the headlamp conforms to all applicable Federal motor vehicle safety standards.

(ii) The lens of each replaceable bulb headlamp using Type HB3 or HB4 light sources, or Type HB1 light sources in conjunction with Type HB3 or HB4 light sources within a headlamp system on a motor vehicle shall permanently display the Type designation(s) for that light source on the lens in front of each light source.

(i) The system shall be aimable in accordance with paragraph S7.7.

(j) Each headlamp shall meet the requirements of paragraph S7.4(l) and (m).

(k) Each headlamp shall be marked in compliance with § 575.6 of this chapter.

S7.6 *Standardized Replaceable Light Sources.* Each standardized replaceable light source shall be designed to conform to the following requirements:

(a) A Type HB1 light source shall be designed to conform to the dimensions specified in Figure 3 and shall incorporate a silicone O-ring. Its maximum power on the lower bean shall be 50 watts, and on the upper beam, 70 watts. Its luminous flux in lumens shall be 700 +/− 15% on the lower beam and 1200 +/− 15% on the upper beam.

(b) A Type HB3 light source shall be designed to conform to the dimensions specified in Figure 19. Its maximum power on the upper beam shall be 70 watts. Its luminous flux in lumens shall be 1700 +/− 12% on the upper beam.

(c) A Type HB4 light source shall be designed to conform to the dimensions specified in Figure 20. Its maximum power shall be 60 watts on the lower beam, and its luminous flux in lumens on the lower beam shall be 1000 +/− 15%.

(d) The filament of a light source shall be seasoned before measurement of maximum power and luminous flux.

(e) Measurement of maximum power and luminous flux shall be made with the direct current test voltage regulated within one quarter of one percent. The test voltage shall be design voltage, 12.8v. The measurement of luminous flux shall be in accordance with the Illuminating Engineering Society of North America, LM–45; *IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps* (April 1980), shall be made with the black cap installed on Type HB1 and HB4, and shall be made with the electrical conductor and light source base shrouded with an opaque white colored cover, except for the portion normally located within the interior of the lamp housing. The measurement of luminous flux for the Types HB3 and HB4 shall be with the base covered with a white

cover shown in Figures 19–1 and 20–1. The white covers are used to eliminate the likelihood of incorrect lumen measurement that will occur should the reflectance of the light source base and electrical connector be low.

(f) The capsule, lead wires and/or terminals, and seal on each Type HB1, Type HB3 and Type HB4 light source shall be installed in the base so as to provide an airtight seal. Such a seal exists when no air bubbles shall appear on the low pressure (connector) side after the light source has been immersed in water for one minute while inserted in a cylindrical aperture of 1.350 to 1.346 in. (34.30 to 34.2 mm) (HB1), or 0.796 +/−0.004 in (20.22+/−0.1. mm) (Type HB3), or 0.875 +/− 0.004 in (22.2 +/− 0.1 mm) (Type HB4) and subjected to a minimum air pressure of 70kPa (10 P.S.I.G.) on the glass capsule side.

(g) After the force deflection test conducted in accordance with S9, the permanent deflection of the glass envelope shall not exceed 0.005 in. (0.13 mm) in the direction of the applied force.

(h) A general tolerance shall apply to Figure 3 as follows: +/− 0.0004 in. (0.10 mm) to all linear dimensions and +/− degree 00 minutes to all angular dimensions except for referenced dimensions and unless otherwise specified.

(i) The base of each Type HB3 and Type HB4 light source shall be marked by its manufacturer or importer with its HB Type designation, with the name or any trademark of the manufacturer and importer (if applicable) that is registered with the U.S. Patent Office. Each standardized light source shall be marked with the symbol DOT horizontally or vertically, which shall constitute a certification that the light source conforms to all applicable Federal motor vehicle safety standards.

S7.7 *Aimability Performance Requirements.*

S7.7.1 Each headlamp shall be equipped with fiducial marks, aiming pads or similar references of sufficient detail and accuracy for determination of correct alignment with the photometer axis when being tested for photometric compliance, and to serve as the basis for the aiming reference when the lamp is installed on a motor vehicle.

S7.7.2 Each headlamp shall be installed on a motor vehicle with a mounting and aiming mechanism that allows aim inspection and adjustment of both vertical and horizontal aim, and is accessible for those uses without removal of any vehicle parts. The vertical mechanism shall be continuously adjustable over the full range. Adjustment of one axis through its full range shall not cause the aim of the other axis to deviate more than +/− 0.76 degree.

S7.7.3 When a headlamp system is installed on a motor vehicle, the range of its vertical aim shall not be less than the greater of the following: +/− 4 degrees, or the full range of pitch angle achievable by the vehicle on which the headlamp system is installed. The range of pitch angle shall as a minimum be determined from unloaded vehicle weight to gross vehicle weight rating, and incorporate pitch angle effects from maximum trailer or trunk loadings, the full range of tire intermix sizes and suspensions recommended and/or installed by the vehicle manufacturer, the anticipated effects of suspension sag, variable passenger loading, and vehicle repair accommodation.

S7.7.4 When a headlamp system is installed on a vehicle, the range of its horizontal aim shall not be less than 2.5 degrees.

S7.7.5 When a headlamp system is installed on a motor vehicle, it shall be aimable with either an externally applied headlamp aiming device or on-vehicle headlamp aiming devices installed by the vehicle manufacturer, in accordance with either paragraph S7.7.5.1 or S7.7.5.2. When aimed with the reference axis of each lamp aligned with the photometric axis, each installed headlamp system shall be designed to conform to the applicable photometric performance requirements specified by this standard. This performance shall occur with any headlamp intended for use in the headlighting system. When in use headlamps shall not have any style ornament or other feature, such as a translucent cover or grill, in front of the lens. Upon completion of the manufacture of the vehicle each headlamp system shall be aimed at 0.0 position +/− 0.19 degree vertically, and 0.38 degree horizontally with the vehicle at unloaded vehicle weight.

S7.7.5.1 *External aiming.* Each headlamp system that is capable of being mechanically aimed by external headlamp aiming devices shall be mechanically aimable using the equipment specified in SAE Standard J602 OCT80 *Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units* without the removal of any ornamental trim rings or other parts.

(a) *Torque deflection test.* Each headlamp system that is designed to use such devices shall not deviate more than 0.30 degree when a downward torque of 20 lb.-in. (2.25 N-m) is applied to the headlamp in its normal operating position, through the lamp's mechanical axis at the plane of the forwardmost aiming pad.

(b) *Inward force test.* When a headlamp is installed on a motor vehicle, its aim in any direction shall not change by more than 0.30 degree nor shall the lamp recede more than 0.1 in. (2.5 mm.) after being subjected to an inward force of 50 pounds (222 newtons) applied evenly to the lens parallel to the mechanical axis.

(c) *Corrosion test.* Each headlamp system mounting and aiming mechanism shall be subjected to a salt spray (fog) test in accordance with ASTM B117–73 *Method of Salt Spray (Fog) Testing* for a period of 50 hours, consisting of two successive 25 hour periods of 24 hours exposure followed by 1 hour of drying. At the end of 50 hours the headlamp system shall be capable of meeting any of the applicable requirements of paragraph S7.7.

(d) Each headlamp system designed to use the Headlamp Aiming Device Locating Plates for the 100 x 165 mm unit and the 142 x 200 mm unit which have adjustable length legs, shall meet the requirements of subparagraphs (1) and (2).

(1) The lens shall have three pads which meet the requirements of Figure 4, *Dimensional Specifications for Location of Aiming Pads on Replaceable Bulb Headlamp Units.* Except as provided in subparagraph (2) a whole number, which represents the distance in tenths of an inch (i.e. 0.3 inch = 3) from the aiming reference plane to the respective aiming pads which are not in contact with that plane, shall be inscribed adjacent to each respective aiming pad on the lens. The height of these numbers shall be not less than .157 inch (4 mm). If there is interference between the plane and the area of the lens between the aiming pads, the whole number will represent the distance to a secondary plane. The secondary plane shall be located parallel to the aiming reference plane and as close to the lens as possible without causing interference.

(2) If the most forward aiming pad is the lower inboard aiming pad, then the dimensions may be placed anywhere on the lens. The dimension for the outboard aiming pad (Dimension F in Figure 4) shall be followed by the letter "H" and the dimension for the center aiming pad shall be followed by the letter "V". The dimensions shall be expressed in tenths of an inch.

(e) Each headlamp may be designed to use the nonadjustable Headlamp Aiming Device Locating Plate for the 100 x 165 mm unit, the 142 x 200 mm unit, the 146 mm diameter unit, or the 178 mm diameter unit of SAE J602, or the 92 x 150 mm Type F unit. If so designed, no additional lens marking is necessary to

designate the type of plate or dimensions.

S7.7.5.2 *On-vehicle aiming.* Each headlamp system that is capable of being aimed by on-vehicle equipment shall include a Vehicle Headlamp Aiming Device (VHAD) that conforms to the following requirements:

(a) The VHAD shall provide for headlamp aim inspection and adjustment in both the vertical and horizontal axis.

(1) *Vertical aim:* The VHAD shall include the necessary references and scales relative to the horizontal plane to assure correct vertical aim for photometry and aiming purposes. An off-vehicle measurement of the plane of the ground is permitted. In addition, an equal number of graduations from the "0" position representing angular changes in the axis in the upward and downward directions shall be provided. The "0" position shall indicate that the axis of the headlamp is horizontal.

(i) Each graduation shall represent a 0.19 degree (1 in. at 25 feet) change in axis position to provide for variations in aim at least from 1.2 degrees above and below the horizontal, and have an accuracy relative to the zero mark of less than 0.1 degree.

(ii) The VHAD shall be marked to indicate headlamp aim movement in the upward and downward directions.

(iii) Each graduation shall indicate a linear movement of the scale indicator of not less than 0.05 in. (1.27 mm).

(iv) The vertical indicator shall perform through a range of +/−½ degrees.

(v) Means shall be provided in the VHAD for compensating for deviations in floor slope from the horizontal plane that would affect the correct positioning of the headlamp for vertical aim.

(2) *Horizontal aim.* The VHAD shall include a horizonal aim feature with a horizontal aim scale marked "0" with respect to the fiducial or reference marks or devices required by paragraph S7.7.1, The "0" mark shall be used to indicate alignment of the axis of the headlamps relative to the longitudinal axis of the vehicle. In addition, an equal number of graduations from the "0" position representing equal angular changes in the axis relative to the vehicle axis shall be provided.

(i) Each graduation shall represent a 0.38 degree change (2 in. at 25 feet) in axis position to provide for variations in aim at least 0.76 degree (4 in. at 25 feet) to the left and right of the longitudinal axis of the vehicle, and have an accuracy relative to the zero mark of less than 0.1 degree.

(ii) The VHAD shall be marked to indicate headlamp aim movement in the left and right directions.

(iii) The graduations shall be readable without moving any part of the vehicle except the hood, under an illumination level no greater than 30 foot candles, measured at the top of the radiator, by an observer having 20/20 vision (Snellen), and shall permit aim adjustment to within 0.38 degree (2 in. at 25 feet).

(iv) The horizontal indicator shall perform through a range of +/−0.76 degree (4 in. at 25 feet); however, the indicator itself shall be capable of a movement of +/−2.5 degrees relative to the longitudinal axis of the vehicle to accommodate any adjustment necessary for recalibrating the indicator after vehicle repair.

(b) The VHAD and associated headlamp(s) shall be rigidly mounted in a headlamp test fixture and comply with the following laboratory test procedures:

(1) Each graduation on the horizontal and vertical aim scales shall be checked and in no case shall the variation from the correct aim exceed +/−0.2 degree, and +/−0.1 degree respectively.

(2) With the aiming plane horizontal and vertical and with the scale on the device set at 0, the aimer shall be adjusted before each of the following tests to assure that the indicators are centered on 0.

(3) The VHAD and an unlighted headlamp assembly shall be stabilized at 20 +/−5 degrees F (−7+/−3 degrees C) in a circulating air environmental test chamber. After a period of 30 minutes, the variation from correct horizontal or vertical aim shall not exceed +/−0.2 degree, and +/−0.1 degree, respectively.

(4) The VHAD, and the headlamp assembly with it highest wattage filament (or combination of filaments intended to be used simultaneously) energized at its design voltage, shall then be stabilized at 100+/−5 degrees F (38+/−3 degrees C) in a circulating air environmental test chamber. After a period of 30 minutes, the variation from correct horizontal and vertical aim shall not exceed +/−.2 degree, and +/−0.1 degree, respectively.

(5) The VHAD and an unlighted headlamp assembly shall then be placed in a circulating air environmental test chamber and exposed to a temperature of 140 +/−5 degrees F (60+/−3 degrees C) for 24 hours, followed by a temperature of −40+/−5 degrees F (−40+/−3 degrees C) for 24 hours and then permitted to return to room temperature, after which the VHAD and headlamp assembly shall show no visible damage. The variation from correct horizontal or vertical aim shall not exceed +/−0.2 degree, and +/−0.1 degree, respectively.

(6) The VHAD and headlamp assembly shall then be tested according to the corrosion test requirements of paragraph S8.4.

(7) The VHAD and headlamp assembly (if the headlamp is separable or intended to be used with the VHAD) shall then be tested for compliance with the photometrics appropriate for it in accordance with the test procedures of paragraphs 4.1, and 4.1.4 (except for 4.1.4.3). A reaim tolerance of ¼ degree is permitted for any test point.

(c) The method for aim adjustment shall be provided in the vehicle operator's manual in clear operating instructions, or on a label permanently affixed to the vehicle adjacent to each VHAD.

S8 *Tests and Procedures for Headlighting Systems.* When tested in accordance with the following procedures, each integral beam headlamp shall meet the requirements of paragraph S7.4, and each replaceable bulb headlamp shall meet the requirements of paragraph S7.5.

S8.1 *Photometry.* Each headlamp shall be tested according to paragraph 3.5, Photometric Design Requirements and Table 1 of SAE Standard J579 DEC84 or Figure 15 or Figure 17 of this standard, as applicable, after the tests specified in paragraphs S8.2, S8.3, S8.5, S8.6.1, S8.6.2, and S8.7.

S8.2 *Abrasion.* (a) A headlamp shall be mounted in the abrasion test fixture in the manner indicated in Figure 5 with the lens facing upward.

(b) An abrading pad meeting the requirements in paragraphs (c)(1) through (c)(4) of this section shall be cycled back and forth (1 cycle) for 11 cycles at 4 ± 0.8 in. (10 cm ± 2 cm) per second over at least 80 percent of the lens surface, including all the area between the upper and lower aiming pads, but not including lens trim rings and edges.

(c)(1) The abrading pad shall be not less than 1.0 ± .04 in . (2.5 cm ± .1 cm) wide, constructed of 0000 steel wool, and rubber cemented to a rigid base shaped to the same vertical contour of the lens. The "grain" of the pad shall be perpendicular to the direction of motion.

(2) The abrading pad support shall be equal in size to the pad and the center of the support surface shall be within ± 0.8 in. (± 2 mm) of parallel to the lens surface.

(3) The density of the abrading pad shall be such that when the pad is mounted to its support and is resting unweighted on the lens, the base of the

pad shall be no closer than .125 in. (3.2 mm) to the lens at its closest point.

(4) When mounted on its support and resting on the lens of the test headlamp, the abrading pad shall then be weighted such that a pad pressure of 2.0 ± .15 psi (14 ± 1 KPa) exists at the center and perpendicular to the face of the lens.

(d) A pivot shall be used if it is required to follow the contour of the lens.

(e) Unused steel wool shall be used for each test.

S8.3 *Chemical resistance.* (a) The entire exterior lens surface of the headlamp in the headlamp test fixture and top surface of the lens-reflector joint shall be wiped once to the left and once to the right with a 6-inch square soft cotton cloth (with pressure equally applied) which has been saturated once in a container with 2 ounces of a test fluid as listed in paragraph (b). The lamp shall be wiped within 5 seconds after removal of the cloth from the test fluid.

(b) The test fluids are:

(1) Gasoline, unleaded, 89 octane or above (R ± M/2) (consisting by volume of 47% toluene, 3% benzine, and 50% iso-octane) used per OSHA Std. 29 CFR 1910.106—*Handling Storage and Use of Flammable combustible Liquids.*

(2) Tar remover (consisting of volume of 45% xylene and 55% petroleum base with mineral spirits).

(3) Power steering fluid (as specified by the manufacturer of the motor vehicle on which the headlamp is intended to be installed).

(4) Windshield washer fluid consisting of 0.5% monoethanolamine with the remainder 50% concentration of methanol/distilled water by volume.

(5) Antifreeze (50% concentration of ethylene glycol/distilled water by volume).

(c) After the headlamp has been wiped with the test fluid, it shall be stored in its designed operating attitude for 48 hours at a temperature of 73° F ± 7° (23° C ± 4° and a relative humidity of 30 ± 10 percent. At the end of the 48-hour period, the headlamp shall be wiped clean with a soft dry cotton cloth and visually inspected.

S8.4 **Corrosion.** (a) A connector test shall be performed on each filament circuit prior to the test in subparagraph (b) according to Figure 1 of SAE Standard J580 DEC86. The power source shall be set to provide 12.8 volts and the resistence shall be set to produce 10 amperes.

(b) The headlamp with connector attached to the terminals, unfixtured and its designed operating attitude with all drain holes, breathing devices or other designed openings in their normal operating positions, shall be subjected to a salt spray (fog) test in accordance with ASTM B117-73, *Method of Salt Spray (Fog) Testing,* for 240 hours, consisting of ten successive 24-hour periods. During each period, the headlamp shall be mounted in the middle of the chamber and exposed for 23 hours to the salt spray. The spray shall be activated during the 24th hour. The bulb shall be removed from the headlamp and from the test chamber during the one hour of salt spray deactivation and reinserted for the start of the next test period, at the end of the first and last three 23-hour periods of salt spray exposure, and at the end of any two of the fourth through seventh 23-hour periods of salt-spray exposure. The test chamber shall be closed at all times except for a maximum of 2 minutes which is allowed for removal or replacement of a bulb during each period. After the ten periods, the lens reflector unit without the bulb shall be immersed in deionized water for 5 minutes, then secured and allowed to dry by natural convection only.

(c) Using the voltage, resistance and pretest set up of paragraph (a) the current in each filament circuit shall be measured after the test conducted in paragraph (b).

S8.5 *Dust.* The headlamp, mounted on a headlamp test fixture, with all drain holes, breathing devices or other designed openings in their normal operating positions, shall be positioned within a cubical box, with inside measurements of 35.4 in. (900 mm) on each side or larger if required for adequate wall clearance, i.e., a distance of at least 5.9 in. (150 mm) between the headlamp and any wall of the box. The box shall contain 9.9 lb. (4.5 kg) of fine powdered cement which conforms to the ASTM C150–77 specification for Portland Cement. Every 15 minutes, the cement shall be agitated by compressed air or fan blower(s) by projecting blasts of air for a two-second period in a downward direction so that the cement is diffused as uniformaly as possible throughout the entire box. This test shall be continued for five hours after which the exterior surfaces of the headlamp shall be wiped clean.

S8.6 *Temperature and internal heat tests*—A headlamp with one or more replaceable standardized light sources shall be tested according to paragraphs S8.61 and S8.62. Tests shall be made with all filaments lighted at design voltage that are intended to be used simultaneously in the headlamp and which is combination draw the highest total wattage. These include but are not limited to filaments used for turn signal lamps, fog lamps, parking lamps, and headlamp lower beams lighted with upper beams when the wiring harness is so connected on the vehicle. If a turn signal is included in the headlamp assembly, it shall be operated at 90 flashes a minute with a 75 ± 2% current "on time." If the lamp produces both the upper and lower beam, it shall be tested in both the upper beam mode and the lower beam mode under the conditions above described, except for a headlamp with a single HB1 light source.

S8.6.1 *Temperature cycle.* A headlamp, mounted on a headlamp test fixture, shall be subjected to 10 complete consecutive cycles having the thermal cycle profile shown in Figure 6. During the hot cycle, the lamp, shall be energized commencing at point "A" of Figure 6 and de-energized at point "B." Separate or single test chambers may be used to generate the environment of Figure 6. All drain holes, breathing devices or other openings or vents of the headlamps shall be in their normal operating positions.

S8.6.2 *Internal Heat Test.* (a) The headlamp lens surface that would normally be exposed to road dirt shall be uniformly sprayed with any appropriate mixture of dust and water or other materials to reduce the photometric output at the H-V test point of the upper beam (or the ½D-1½R test point of the lower beam as appropriate) to 25 ± 2% of the output originally measured in the photometric test conducted pursuant to paragraphs S7.4(i), or S7.5(a) through (4), as applicable. A headlamp with single HB1 light source shall be tested on the upper beam only. Such reduction shall be determined under the same conditions as that of the original photometric measurement.

(b) After the photometric output of the lamp has been reduced as specified in paragraph (a), the lamp and its mounting hardware shall be mounted in an environmental chamber in a manner similar to that indicated in Figure 7 "Dirt/Ambient Test Setup." The headlamp shall be soaked for one hour at a temperature of 95 + 7 − 0 degrees F (35 + 4 − 0 °C) and then the lamp shall be energized according to paragraph S8.6 one hour in a still air condition, allowing the temperature to rise from the soak temperature.

(c) The lamp shall be returned to a room ambient temperature of 73 + 7 − 0 degrees F (23 + 0 degrees C) and a relative humidity of 30 ± 10 % and allowed to stabilize to the room ambient temperature. The lens shall then be cleaned.

S8.7 *Humidity.* The headlamp mounted on a headlamp test fixture shall be placed in a controlled

environment consisting of a temperature of 100 + 7 − 0 °F (38 + 4 − 0 °C) with a relative humidity of not less than 90%. All drain holes, breathing devices, and other designed openings shall be in their normal operating positions. The headlamp shall be subjected to 20 consecutive 6-hour test cycles. In each cycle it shall be energized for 1 hour at design voltage with the highest combination of filament wattages that are intended to be used including a turn signal flashing at 90 flashes per minute with 75 ± 2% current "on time", if so equipped, and then de-energized for 5 hours. After competion of the last cycle, the lamp shall be soaked for 1 hour at 73 ± 7 − 0 °F (20 ± 4 − °C) and relative humidity of 30 ± 10% before it is removed for photometric testing. The headlamp shall be tested for photometrics at 10 ± 1 minutes following completion of the humidity test.

S8.8 *Impact.* The headlamp shall be rigidly mounted in a headlamp test fixture on the seating lugs with the mechanical axis (bulb socket axis) vertical, and the lens upward. The seating plane of the test fixture shall consist of oakwood 0.5 inch (13 mm) thick. One impact shall be delivered to the center of the lens on the mechanical axis using a steel ball bearing with a diameter of .9055 in. (23 mm) weighing 1.76 oz. (50 grams), dropped freely from a distance of 15.75 in. (40 cm) from the bottom of the ball to the surface of the lens, at the intersection of the ball trajectory and the mechanical axis of the headlamp.

S8.9 Sealing. An unfixture headlamp in its design mounting position shall be placed in water at a temperature of 176 +/−5 degree F (60 +/−3 deg. C) for one hour. The headlamp shall be energized in its highest wattage mode, with the test voltage at 12.8 +/−0.1 V. during immersion. The lamp shall then be de-energized and immediately submerged in its design mounting position into water at 32 +5–0 deg. F (0 +3–0 deg. C). The water shall be in a pressurized vessel, and the pressure shall be increased to 10 pounds per square inch guage (69 kPa), upon placing the lamp in the water. The lamp shall remain in the pressurized vessel for a period of thirty minutes. This entire procedure shall be repeated for four cycles, and then the lamp shall be inspected for any signs of water on its interior. During the high temperature portion of the cycles, the lamp shall be observed for signs of air escaping from its interior. Any water occurring on the interior or air escaping shall mean that the lamp is not a sealed lamp.

S9. *Deflection test for standardized replaceable light sources.*

With the light source rigidly mounted in a fixture in a manner indicated in Figure 8, apply a force of 4.0 ± 0.1 pounds (17.8 ± 0.4N) at a distance "A" from the reference plane perpendicular to the longitudinal axis of the glass capsule and parallel to the smallest dimension of the pressed glass capsule seal. The force application of shall be applied using a rod with a hard rubber tip with a minimum spherical radius of .039 in (1 mm). The force shall be applied radially to the surface of the glass capsule in four locations in a plane parallel to the reference plane and space at a distance "A" from that plane. These force applications shall be spaced 90 degrees apart starting at the point perpendicular to the smallest dimension of the pressed seal of the glass capsule. The bulb deflection shall be measured at the glass capsule surface at 180 degrees opposite to the force application.

S10. *Simultaneous Aim Photometry Tests.*

(a) *Type F. Headlamp Systems* The assembly shall be located on a goniometer placed not less than 60 feet (18.3m) from the photometer. The LF unit shall be aimed mechanically by centering the unit on the photometer axis and aligning the aiming plan of the lens perpendicular to the photometer axis. Then the assembly shall be moved in a plane parallel to the established aiming plane of the LF headlamp until the UF headlamp is centered on the photometer axis. Photometry measurements of the UF photometry unit shall be completed using the aiming plane so established, and the procedures of section 4.6 of SAE J575 JUN80, and Figure 15. A reaim tolerance of ± 1/4 degree is allowed for any test point.

(b) *Integral Beam Headlamp Systems.* The assembly used for simultaneously aiming more than one integral beam headlamp shall be placed on a test fixture on a goniometer located not less than 60 feet (18.3 m.) from the photometer. The assembly shall be aimed by centering the geometric center of the lower beam lens(es) on the photometer axis and by aligning the assembly's axis with the photometer axis. Photometric compliance of the lower beam shall be determined with all lower beam contributors illiminated and in accordance with section 4.6 Photometry of SAE Standard J575 JUN 80, and Figure 15. The assembly shall then be moved in a plane parallel to the established aiming plane of the lower bean until the assembly is located with the geometric center of the upper lens(es) on the photometer axis. Photometric compliance for upper beam shall now be determined using the figure and procedure specified for the lower beam. During photometric testing, a ¼ degree reaim in any direction for any test point is permitted for the upper beam, but is not permitted for the lower beam.

* * * * *

3. The item "Headlamps" of Tables I and III would be amended by removing the entries in the second column and the entries in the final column in each Table, and by adding "See S7." to the second column.

4. The footnotes in Tables I, II, and III, would be amended by changing the prefix of each from "S4" to "S5".

5. Footnote 2 in Table IV would be revised to read "S5.1.1.15".

PART 575—[AMENDED]

6. The authority citation for Part 575 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1407, 1421, 1423; delegation of authority at 49 C.F.R 1.50.

§ 575.4 [Amended]

7. Section 575.4(a) would be amended by revising the phrase "motor vehicles and tires" to read "motor vehciles, headlamps, and tires."

8. Secs, 575.4(b), (c), and (d) would be amended by revising the phrase "motor vehicles or tires" to read "motor vehicles, headlamps, or tires."

§ 575.6 [Amended]

9. In § 575.6, in paragraph (a), the phrase "vehicle and its tires" would be revised to read "vehicle, its headlamps and tires".

10. A new § 575.102 would be added to Subpart B to read as follows:

§ 575.102 Headlamps.

(a) *Scope.* This section requires manufacturers of motor vehciles to which this section applies to identify the part or parts numbers of original and replacement headlamps certified for use in their vehicles, and the name or trademark of the headlamp manufacturer.

(b) *Purpose.* The purpose of this section is to aid the consumer in ensuring that motor vehicle headlamps bought for replacement of original equipment are the equivalent in performance and application of the original equipment headlamps.

(c) *Application.* This section applies to passenger cars, multipurpose passenger vehicles, trucks, and buses, equipped with headlamps whose exterior dimension are not prescribed by, or incorporated by reference in, Standard No. 108 of this chapter (49 CFR 571.108).

(d) *Required Information.* Each manufacturer of passenger cars, multipurpose passenger vehicles, trucks, and buses, to which this section applies, shall provide informaiton with each vehicle at the time of its first purchase for purposes other than resale which must indiciate clearly the headlamp manufacturer's name and/or trade mark, and all headlamp parts numbers.

Issued on: December 23, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-29715 Filed 12-28-87; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 52, No. 249
Tuesday, December 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

Food and Nutrition Service

Food Stamp Program; Thrifty Food Plan for Alaska, Hawaii, Guam, and the Virgin Islands.

AGENCY: Food and Nutrition Service, USDA.

ACTION: General notice.

SUMMARY: The Department is updating the Thrifty Food Plan which determines the maximum amount of food stamps which participating households receive in Alaska, Hawaii, Guam, and the Virgin Islands. These adjustments, required by law, take into account changes in the cost of living.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas O'Conner, Chief, Administration and Design Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756-3383.

SUPPLEMENTARY INFORMATION:

Publication

State agencies implemented this action on October 1, 1987. Based on regulations published at 47 FR 46485-46487 (October 19, 1982) annual statutory adjustments to the Thrifty Food Plan are issued by General Notices published in the **Federal Register** and not through rulemaking proceedings.

Classification

Executive Order 12291. This action has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512-1. It has been determined that this action would not result in an annual effect on the economy of $100 million or more; and it will not have significant adverse effects on competition, productivity, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified this action as "not major."

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) to 7 CFR 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. Anna Kondratas, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will increase the amount of money spent on food through food stamps. However, this money will be distributed among food vendors in Alaska, Hawaii, Guam and the Virgin Islands, so the effect on any one vendor will not be significant.

Paperwork Reduction Act. This action does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Background

Thrifty Food Plan (TFP)

The TFP is a plan for the consumption of foods of different types (food groups) that families might use to provide nutritious meals and snacks for family members. The plan suggests amounts of food for men, women, and children of different ages. The cost of the TFP is adjusted periodically to reflect changes in the costs of the food groups.

The TFP also constitutes the basis for allotments for food stamp households. As such, the cost of the TFP is the maximum benefit level payable to a household of a particular size. The maximum benefit is paid to households which have no net income. For households which have some net income, their allotment is determined by reducing the TFP for their household size by 30 percent of the household's net income.

Food stamp allotments are adjusted periodically to reflect changes in cost levels. Section 3(o) of the Food Stamp Act of 1977, as amended, requires that an adjustment take place on October 1, 1987, based upon TFP costs for the twelve months ending June 1987 for a family of four persons consisting of a man and woman ages 20-50 and children 6-8 and 9-11. The October 1, 1987 adjustment in food stamp allotments for the 48 States and D.C. was published in a separate Notice in the **Federal Register**.

TFPs for Alaska and Hawaii were delayed because of a change in BLS procedures. Under the revised BLS procedure, monthly food price data for Alaska and Hawaii are no longer available. Beginning with the January-June 1987 period, BLS began compiling and publishing CPI information for Anchorage and Honolulu and some other areas on a semiannual basis. Although *some* food price data were collected in June 1987 in Anchorage and Honolulu, the number of items for which prices were collected was too small to provide valid information for June 1987. Instead the information released by BLS was an average for the six-month period that includes June 1987. Although the six-month average could be used to obtain a TFP for Alaska and Hawaii for January-June 1987, this is not the same as the June 1987 TFP would be, so FNS Adjusted this average in order to approximate as nearly as possible the actual cost of the TFP for June 1987. In order to make the adjustment, FNS measured how the June 1986 Alaska and Hawaii TFPs compared with the January-June 1986 average TFPs for these areas. This measure was used as a proxy for how the June 1987 TFP would compare with the January-June 1987 averages, and it was multiplied by the January-June average TFPs. The resultant TFPs for June 1987 are $375.06 in Alaska and $444.46 in Hawaii. The TFPs for Guam and the Virgin Islands were $427.90 in Guam and $373.30 in the Virgin Islands.

To obtain the maximum food stamp benefit for each household size, the TFP costs for the four-person household were divided by four, multiplied by the appropriate household size and economy of scale factor, and the final result was rounded down to the nearest dollar.

Maximum food stamp benefits for Guam and the Virgin Islands cannot exceed those in the 50 States and D.C. In Alaska, where the TFP is based on Anchorage prices, the urban allotment is

the higher of the allotment that was in effect in urban areas on October 1, 1985 or 1.0079 percent higher than the Anchorage TFP. The allotment for rural I areas is the higher of the allotment that was in effect in each area on October 1, 1985 or 28.52 percent higher than the Anchorage TFP. (Thus, the allotment for Nenana will be at the previous level for rural Alaska.) The rural II allotment is 56.42 percent higher than the Anchorage TFP. For further information concerning the allotments for urban Alaska, rural I Alaska, Nenana, and rural II Alaska, see 50 FR 13759–13761.

The following table shows the new allotments for urban Alaska, rural I Alaska, Nenana, rural II Alaska, Hawaii, Guam, and the Virgin Islands.

THRIFTY FOOD PLAN AMOUNTS [1]—OCTOBER 1987, AS ADJUSTED

Household Size	Urban Alaska [2]	Rural I Alaska [3]	Rural II Alaska [4]	Nenana [5]	Hawaii	Guam [6]	Virgin Island [6]
1	$113	$144	$176	$158	$133	$128	$111
2	207	265	322	290	244	235	205
3	297	379	462	415	350	336	293
4	378	482	586	527	444	427	373
5	448	572	696	626	527	508	443
6	538	686	836	752	633	609	531
7	595	759	924	831	700	673	587
8	680	867	1056	949	800	770	671
Each additional member	+85	+108	+132	+119	+100	+96	+84

[1] Adjusted to reflect the cost of food in June, adjustment for each houshold size, economies of scale, and rounding.
[2] These levels are 1.0079 percent higher than the Anchorage TFP.
[3] These levels are 28.52 percent higher than the Anchorage TFP. With the exception of Nenana, all Rural I areas formerly received the allotment for urban Alaska.
[4] These levels are 56.42 percent higher than the Anchorage TFP.
[5] These levels were in effect in Nenana on October 1, 1985. They are higher than the allotment for Rural I Alaska.
[6] Adjusted to reflect changes in the cost of food in the 48 States and D.C., which correlate with price changes in these area. TFP costs in these areas cannot exceed costs in Rural II Alaska.

These amounts will go into effect October 1, 1987.

(91 Stat. 958 (7 U.S.C. 2011, et seq.))

Sonia Crow,

Acting Administrator

Date: December 21, 1987.

[FR Doc. 87–29793 Filed 12–28–87; 8:45 am]

BILLING CODE 3410-30-M

Packers and Stockyards Administration

Certification of Central Filing System; Oklahoma

The Statewide central filing system of Oklahoma is hereby certified, pursuant to section 1324 of the Food Security Act of 1985, on the basis of information submitted by Hannah D. Atkins, Secretary of State, for farm products produced in that State as follows:

Cattle and calves
Goats
Horses
Hogs
Sheep and lambs
Chickens
Eggs
Turkeys
Milk
Mohair
Wool
Catfish
Crawfish
Rye
Wheat
Barley
Corn
Hay
Oats
Sorghum grain
Triticale
Peanuts
Soybeans
Cotton
Dry beans
Dry peas
Potatoes
Sweet potatoes
Asparagus
Corn sweet
Okra
Peas, southern
Onions
Tomatoes
Apples
Apricots
Cherries
Grapes
Peaches
Pears
Cantaloupes
Watermelons
Blackberries
Blueberries
Strawberries
Pecans
Walnuts
Grass
Legume
Popcorn
Ornamental trees and shrubs
Roses
Shade trees
Trees Christmas
Trees hardwoods and pulpwoods
Honey

This is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Sec. 1324(c)(2), Pub. L. 99–198, 99 Stat. 1535, 7 U.S.C. 1631(c)(2); 7 CFR 2.17(e)(3), 2.56(a)(3), 51 FR 22795.

Dated: December 23, 1987.

B.H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

[FR Doc. 87–29753 Filed 12–23–87; 8:45 am]

BILLING CODE 3410-KD-M

BOARD FOR INTERNATIONAL BROADCASTING

SES Performance Review Board; Membership

Section 4314 (c)(1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards. The boards shall review and evaluate the initial appraisal by the supervisor of a senior executive's performance, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Because of the Board for International Broadcasting's small size, a Performance Review Board register is established in which SES members from other small agencies participate. This notice is to establish a PRB for the Board for International Broadcasting. The members whose names appear are:

Lindley S. Sloan, Executive Director, Japan/US Friendship Commission (PRB Chairman)
Jeffrey S. Lubbers, Research Director, Administrative Conference of the U.S.
Gary Edles, Legal Counsel, Administrative Conference of the U.S.

Dated: December 23, 1987.

Mark G. Pomar,

Deputy Executive Director.

[FR Doc. 87–29782 Filed 12–28–87; 8:45 am]

BILLING CODE 6155-01-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Patent and Trademark Office.

Title: Trademark Processing.
Form Numbers: PTO—Numerous; OMB—0651-0009.
Type of Request: Extension of the expiration date of a currently approved collection.
Burden: 72,800 respondents; 32,351 reporting hours.
Needs and Uses: Information collected is for the purpose of applying for or maintaining a trademark. The information is used by PTO in assessing whether or not the applicant meets the criteria for registering a word, name, symbol, or device as a trademark.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Sheri Fox, 395-3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Office, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: December 22, 1987.

J. Randall Blumenschein,

Chief, Management Support Division, Office of Management and Organization.

[FR Doc. 87-29762 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[Docket No. 7684-01 and 7684-02]

Actions Affecting Export Privileges; Dan Peter Tadmor, Individually and Doing Business as Agentek, Ltd.

Summary

Pursuant to § 388.23 of the Export Administration Regulations, Dan Peter Tadmor, individually and doing business as Agentek Ltd., both with an address at Atidim Scientific Park, Dvora Hanevia St., P.O.B. 10150, Tel Aviv 61101, Israel, is hereby denied all export privileges for a period of ten years from the date of this Order. Commencing five years from the date of this Order, the denial of export privileges set forth in the Administrative Law Judges's Recommended Decision and Order shall be suspended for the remainder of the ten year period and shall be terminated at the end of such ten year period provided the Respondent commits no further violations of the Act, Regulations, or the final Order entered in this proceeding.

Order

On November 25, 1987, the Administrative Law Judge (ALJ) issued his Recommended Decision and Order in the above referenced matter. The Recommended Decision and Order was referred to me pursuant to the Export Administrative Amendments Act of 1985, 50 U.S.C. Appl 2412, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) and 15 CFR 388.17(a), for final action.

Having examined the record and based on the facts adduced in this proceeding, I affirm the Recommended Decision and Order of the ALJ.

This constitutes final agency action in the proceeding.

Date: December 22, 1987.

Paul Freedenberg,

Acting Under Secretary for Export Administration.

Appearance for Respondent: Mr. Dan Peter, Tadmor (pro se), Agentek Ltd., Atidim Scientific Park, Dvora Hanevia St., P.O.B. 10150, Tel Aviv 61101, Israel.

Appearance for Agency: Margo E. Jackson, Esq., Attorney-Adviser, Office of the Deputy Chief Counsel for Export Administration, U.S. Department of Commerce, Room H-3329, 14th & Constitution Ave., NW., Washington, DC 20230.

Decision and Order

Decision

Procedural Background

This proceeding against Respondent Dan Peter Tadmor, individually and doing business as Agentek Ltd., [1] began with the issuance October 16, 1986 of a charging letter by the Office of Export Enforcement, Trade Administration, U.S. Department of Commerce (the "Agency"). [2] This letter was issued under the authority of the Export Administration Act of 1979 (50 U.S.C. app. sections 2410-2420), as reauthorized and amended by the Export Administration Amendments Act of 1985, Pub. L. 9964, 99 Stat. 120 (July 12, 1985) (the "Act"), and under the authority of the Export Administration Regulations (currently codified at 15 CFR Parts 368-399 (1987)) (the "Regulations"). The letter charged that Respondent had violated §§387.4 and 387.6 of the Regulations in 1983-84 in two reexports for Israel to Switzerland of U.S.-origin computer-related equipment.

Respondent filed a March 2, 1987 answer to the charging letter. Neither Respondent nor Agency Counsel requested a hearing. Consequently, this matter is decided on the record without a hearing. Both Respondent and Agency Counsel made submissions for the record, which closed September 14, 1987. Since Respondent admitted the alleged violations, the sole disputed issue to be decided is the extent of any sanction.

Arguments of the Parties

Agency Counsel asserted that Respondnet reexported U.S.-origin computer-related equipment from Israel to Switzerland, in December 1983 and March 1984, without the U.S. authorization that he knew or should have known was required (August 24, 1987 Statement of Proposed Sanction 1-4). This equipment was controlled, according to Agency Counsel, for national security reasons (*id.* 2), and these unauthorized reexports were made notwithstanding several written representations by Respondent to the Agency and one to his U.S. exporter that he would comply with the Regulations (*id.* 3). Respondent's thinking in making the reexports, per Agency Counsel's evidence, was that he would obtain money needed to save his business, that he was unlikely to be caught, and that, if he were, any sanction would be minimal (*id.* 4). Agency Counsel proposed that the sanction should be a 10-year denial of U.S. export privileges.

Respondent admitted the unauthorized reexports of U.S.-origin equipment as charged, adding that the equipment had in fact been shipped from Israel through Switzerland to South Africa (March 2, 1987 Telex 1; March 27, 1987 Letter, enclosed March 23, 1987 Letter from representative 1-2; April 16, 1987 Final Deposition 2-4, 6-7). The whole thrust of Respondent's case was several points that he pleaded in mitigation. He argued that not he, but somebody else, had initiated the

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[1] The charging letter was actually issued against Daniel Peter Tadmor, individually and doing business as Agentex Limited. Respondent then advised the Agency that his name is Dan Peter Tadmor, and that his company's name had become Agentek Ltd. Accordingly, this proceeding is conducted under the names thus communicated by Respondent to the Agency. See the July 17, 1987 Order for Filings by August 3 and 24, and September 24, 1987, at 2.

[2] When the Office of Export Enforcement issued the charging letter October 16, 1986, it was part of an organization within the U.S. Department of Commerce titled the International Trade Administration. As of October 1, 1987, however, it became part of an organization within the Department titled the Export Administration.

unauthorized reexports (March 23, 1987 Letter, *supra*, at 2; April 16, 1987 Deposition, *supra*, at 3). He said that he had learned of their illegality only after the transactions were under way (April 16, 1987 Deposition, *supra*, at 3), but then continued with them because the revenue from them was essential to saving his company (March 23, 1987 Letter, *supra*, at 2; April 16, 1987 Deposition, *supra*, at 3, 6, 7).

Respondent stressed further that he was continuing to cooperate fully with the Agency's investigation into the unauthorized reexports (March 23, 1987 Letter, *supra*, at 1; April 16, 1987 Deposition, *supra*, at 3, 4, 6), and that he had taken specific steps to assure his future compliance with the Regulations (March 23, 1987 Letter, *supra*, at 1; April 16, 1987 Deposition, *supra*, at 5). Finally, he claimed financial inability to pay more than a modest civil penalty or to survive any denial of U.S. export privileges (March 23, 1987 Letter, *supra*, at 2; April 16, 1987 Deposition, *supra*, at 7).

Findings

The record of this proceeding warrants the following findings. Respondent reexported U.S.-origin computer equipment from Israel to Switzerland in December 1983 and March 1984 (see Agency's August 24, 1987 Statement of Proposed Sanction, *supra*, Exhibits 4, 5), without the U.S. authorization that he knew or should have known was required. This equipment was controlled for national security reasons (*id.*, Exhibit 1). Respondent made these unauthorized reexports not withstanding his written representations to the Agency in 1981, 1982, and 1983, and to the U.S. exporter in 1984, that he would comply with the Regulations (*id.* Exhibits 2, 6).

Conclusions

The record requires the following conclusions. Respondent violated §§ 387.4 and 387.6 of the Regulations in December 1983 and March 1984 by reexporting U.S.-origin computer equipment from Israel to Switzerland without the required U.S. authorization. Such violations involving equipment controlled for national security reasons are a serious matter, and Respondent's arguments advanced in mitigation are insufficient to justify imposition of only a minor sanction. Somebody in Respondent's situation should be deterred from any calculation that the possible revenue from an unauthorized export might outweigh the chances of getting caught and the consequent cost of any sanction.

Agency Counsel's proposed 10-year denial of U.S. export privileges is reasonable. In view of all the circumstances cited by both Agency Counsel and Respondent, it would be fair to Respondent and would achieve effective enforcement of the Act and the Regulations if the last five years of the denial period are suspended, provided that Respondent has complied with the Act and the Regulations during the first five years.

Order

Accordingly, pursuant to the authority delegated to the undersigned by Part 388 of the Regulations, it is hereby ordered as follows.

I. For a period of 10 years from the date of the final Agency action, as modified during the second half of such period by the suspension set forth in Paragraph VI below, Respondent Dan Peter Tadmor, individually and doing business as Agentek Ltd., Atidim Scientific Park, Dvora Hanevia St., P.O.B. 10150, Tel Aviv 61101, Israel, and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to matters which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. All outstanding individual validated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Respondent or any related person, or whereby Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for Respondent or any related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VI. Commencing five years from the data that this Order becomes effective, the denial or export privileges set forth in Paragraphs I-V above shall be suspended, in accordance with § 388.16 of the Regulations, for the remainder of the ten-year period set forth in Paragraph I above, and shall be terminated at the end of such 10-year period, provided that Respondent has committeed no further violations of the Act, the Regulations, or the final Order entered in this proceeding.

VII. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in

this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1)).

Date: November 25, 1987.

Thomas W. Hoya,

Administrative Law Judge.

[FR Doc. 87-29763 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-DT-M

Initiation of National Security Investigation of Imports of Crude Oil and Refined Petroleum Products

AGENCY: U.S. Department of Commerce, International Trade Administration, Office of Industrial Resource Administration.

ACTION: Notice of an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), and request for comments.

SUMMARY: This notice is to advise the public that an investigation is being conducted under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of crude oil and refined petroleum products. Interested parties are invited to submit written comments, opinions, data, information or advice relative to the investigation to the Strategic Analysis Division, Office of Industrial Resource Administration, U.S. Department of Commerce.

DATA: Comments must be received not later than Thursday 28, 1988. Written comments should be addressed to: Steven C. Goldman, Director, Strategic Analysis Division, Office of Industrial Resource Administration, International Trade Administration, U.S. Department of Commerce, Room 3878, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Steven C. Goldman, Director, Strategic Analysis Division, Office of Industrial Resource Administration, Internatinal Trade Administration, U.S. Department of Commerce, Room 3878, Washington, DC 20230, (202) 377-4060.

SUPPLEMENTARY INFORMATION: In an application submitted on December 1, 1987 by the National Energy Security Committee on behalf of a coalition of associations, companies and individuals, the Department of Commerce was requested to initiate an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effect on the national security of imports of crude oil and refined petroleum products.

On December 23, 1987 the Department of Commerce confirmed receipt of and accepted the application requesting an investigation. The findings and recommendations of the investigation will be reported by the Secretary of Commerce to the President no later than December 1, 1988.

The articles to be investigated include crude oil and refined petroleum products. Crude oil is currently classifiable in the Tariff Schedules of the United States (TSUSA) Annotated (1987) at items 475.05 (crude oil testing under 25 degrees A.P.I.) and 475.10 (crude oil testing 25 degrees A.P.I. or more).

The following refined petroleum products are classified under these specific TSUSA categories: 475.25 (motor fuel, including gasoline, leaded and unleaded; naphtha-type jet fuel and kerosene-type jet fuel); 475.30 (kerosene derived from petroleum, shale oil, or both—except motor fuel): 475.34 (naphthas derived from petroleum, shale oil, natural gas or combinations thereof—except motor fuel); 475.40 (mineral oil or medicinal grade derived from petroleum, shale oil, or both); 475.45, 475.55 and 475.60 (lubricating oils and greases, derived from petroleum shale oil, or both, with or without additives); 475.65 and 475.70 (mixtures of hydrocarbons not specially provided for, derived wholly from petroleum, shale oil, natural gas, or combinations thereof, which contain by weight not over 50% of any single hydrocarbon compound); 494.22 (paraffin and other petroleum waxes); 517.5120 (petroleum coke); and 521.11 (asphaltum, bitumen and limestone-rock asphalt).

This investigation is being undertaken in accordance with Part 359 of Title 15 of the Code of Federal Regulations (15 CFR Part 359). Interested parties are invited to submit written comments, opinions, data, information or advice relevant to this investigation to the Office of Industrial Resource Administration, U.S. Department of Commerce, no later than January 28, 1988.

All materials should be submitted with 10 copies. Public information will be made available at the Department of Commerce for public inspection and copying. Material that is national security classified information or business confidential information is subject to the provisions of § 359.6 of the regulations (15 CFR 359.6)

The public record concerning this investigation will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4104, Department of Commerce, 14th and Pennsylvania Avenue NW, Washington, DC 20230. The records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations.

Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration's Freedom of Information Officer (202-377-3031).

If deemed appropriate by the Department, public hearings may be held to elicit further information as provided in § 359.8 (15 CFR 359.8) of the regulations. Notice will be published in the Federal Register, giving the time, place, and matters to be considered at such hearing(s) so that interested parties will have an opportunity to participate.

December 23, 1987.

Gilert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 87-29807 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-01-M

National Oceanic and Atmospheric Administration

Listing of Endangered and Threatened Species and Designating Critical Habitat; Petitions for the Adoption of Rules and Regulations for the Granting of Permits for Whale Watching

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

ACTION: Notice of receipt of petitions.

SUMMARY: NMFS has received two petitions from GreenWorld to issue regulations to control commercial whale watching.

FOR FURTHER INFORMATION CONTACT: Robert C. Ziobro, Protected Species Management Division, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, (202/673-5348).

SUPPLEMENTARY INFORMATION: On December 1 and 9, 1987, NMFS received petitions from GreenWorld to "promulgate regulations to control whale watching and to construct a permit system for it" and to protect right whales "from the harm of close vessel approaches and especially from commercial whale watching." In accordance with the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and the Administrative Procedure Act (5 U.S.C. 553(e)), the Service will review available information on whale watching to determine if the petitioned action is warranted.

Date: December 23, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-29801 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Staged Entry for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information contact Diana Solkoff, International Trade Specialist, Office of Textile and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to stage entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 334, 359-C and 648, produced or manufactured in the People's Republic of China and currently embargoed.

Background

A CITA directive dated December 23, 1986, as amended, was published in the **Federal Register** (51 FR 47041) which announced the establishment of import limits for certain cotton and man-made fiber textile products, including Categories 334, 359-C and 648, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. These categories are currently embargoed.

The U.S. Government has decided to stage entry for a five-month period for Categories 334, 359-C 648 for goods exported in excess of the restraint limits established in the directive of December 23, 1986, as amended.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED(1987).

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 21, 1987.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: To facilitate implementation of the Memorandum of Understanding of December 19, 1987, between the Government of the United States and the People's Republic of China, I request that, effective on January 1, 1988, you permit entry for consumption, or withdrawal for consumption, in the United States, of cotton and man-made fiber textile products in the following categories, produced or manufactured in China and exported to the United States in excess of the restraint limits established for the twelve-month periods which began on January 1, 1987 and extends through December 31, 1987 in each of the 30-day periods in the following amounts:

Category	Period	Amount to be entered
334	January 1-February 1	48,740 dozen.
	February 2-March 2	48,740 dozen.
	March 3-April 1	48,740 dozen.
	April 2-May 2	48,740 dozen.
	May 3-June 1	48,740 dozen.
359-C	January 1-February 1	184,000 pounds.
	February 2-March 2	184,000 pounds.
	March 3-April 1	184,000 pounds.
	April 2-May 2	184,000 pounds.
	May 3-June 1	184,000 pounds.
648	January 1-February 1	207,016 dozen.
	February 2-March 2	207,016 dozen.
	March 3-April 1	207,016 dozen.
	April 2-May 2	207,016 dozen.
	May 3-June 1	207,016 dozen

Merchandise entered in 1988 in the foregoing categories, exported in excess of limits established for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987, shall be charged to the limits established for the period beginning on January 1, 1988 and extending through December 31, 1988.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[1] In Category 359-C, only TSUSA numbers 381.0822, 381.6510, 384.0928 and 384.5222.

[FR Doc. 87-29696 Filed 12-23-87; 11:33 am]

BILLING CODE 3510-DR-M

Announcement of Import Restraint Levels and Guaranteed Access Levels for Certain Cotton and Man-Made Fiber Textile Products From Trinidad and Tobago; Effective on January 1, 1988

December 21, 1987.

The Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, and the President's February 20, 1986 announcement of a Special Access Program for textile products assembled in participating Caribbean Basin beneficiary countries from fabric formed and cut in the United States, and pursuant to the requirements set forth in 51 FR 21208 (June 11, 1986) and 52 FR 26057 (July 10, 1987), has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information, contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton and man-made textile products, produced or manufactured in Trinidad and Tobago and exported during 1988, in excess of the designated twelve-month levels.

In addition, the Commisisoner is also directed to establish guaranteed access levels for certain properly certified cotton and man-made fiber textile products which are assembled in Trinidad and Tobago from fabric formed

and cut in the United States and exported during the same twelve-month period.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 23, 1986, between the Governments of the United States and Trinidad and Tobago, as translated to the new category system, establishes designated consultation levels for Categories 336/636, 338/339, 340/640, 347/348/647/648 and 352/652, exported during the agreement year which begins on January 1, 1988 and extends through December 31, 1988.

In addition to the designated consultation levels, the bilateral agreement also establishes guaranteed access levels for properly certified textile products assembled in Trinidad and Tobago from fabric formed and cut in the United States within Categories 336/636, 338/339, 340/640, 347/348/647/648 and 352/652, exported from Trinidad and Tobago during the agreement year which begins on January 1, 1988 and extends through December 31, 1988.

Textile products in Categories 336/636, 338/339, 340/640, 347/348/647/648 and 352/652 which are exported from Trinidad and Tobago on or after January 1, 1988, qualifying for the Special Access Program for entry under TSUSA 807.0010, must be accompanied by a properly completed CBI Export Declaration (Form ITA-370P).

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1987).

The letter to the Commisisoner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 21, 1987.

Commissioner of Customs,

Departmernt of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreements of October 23, 1986 between the Governments of the United States and Trinidad and Tobago; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1988, entry into the United States for consumption or withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Trinidad and Tobago and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988, in excess of the following designated levels:

Category	12-month restraint level
336/636	65,000 dozen.
338/339	105,000 dozen.
340/640	50,000 dozen.
347/348/647/648	100,000 dozen.
352/652	100,000 dozen.

Note.—Of which not more than 25,000 dozen shall be in shirts made from yarn dyed fabric of two or more colors in the warp and/or filling. (Categories 340pt/640pt.—only. TSUSA numbers 381.0522, 381.3132, 381.3142, 381.3152, 381.5500, 381.5610, 381.5625, 381.5637, 381.5660, 381.9535, 381.9547, 381.9550 and 384.2306.)

To the extent that trade which not falls in the foregoing categoreies is within a category limit for the period October 1, 1986 through December 31, 1987, such trade, to the extent of any unfilled balances, shall be charged against the levels of restraint established for such goods during that period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

In accordance with the provisions of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986) and 52 FR 26057 (July 10, 1987), you are directed to establish guaranteed access levels for properly certified cotton and man-made fiber textile products in the following categories which are assembled in Trinidad and Tobago from fabric formed and cut in the United States and exported to the United States from Trinidad and Tobago during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988.

Category	Guaranteed access level
336/636	300,000 dozen.
338/339	225,000 dozen.
340/640	100,000 dozen.
347/348/647/648	300,000 dozen.
352/652	300,000 dozen.

Any shipment for entry under TSUSA 807.0010 which is not accompanied by a valid and correct certification and CBI Export Declaration in accordance with the provisions of the certification requirements established in the directive of July 28, 1987 shall be deined entry unless the Government of Trinidad and Tobago authorizes the entry and any charges to be appropriate designated consultation levels. Any shipment which is declared as TSUSA 807.0010 but found not to qualify for the Special Access Program may be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textiles Agreements.

[FR Doc. 87-29697 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of Import Limits and Restraint Period for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the Federative Republic of Brazil

December 21, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published blow, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to amended the previously established import restraint limits for cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the new restraint period which began on April 1, 1987 and extends through December 31, 1987.

Background

A CITA directive dated March 23, 1987 was published in the **Federal**

Register (52 FR 9684) which established import restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1987 and extends through March 30, 1988.

During consultations held between the Governments of the United States and the Federative Republic of Brazil, it was understood that the previously established twelve-month restraint period would be amended to establish an aggregate limit and, within the aggregate, specific limits for textiles and textile products in Categories 300/301, 310/318, 313, 314, 315, 317, 319, 334/335, 336, 337, 338/339, 347/348, 350, 352, 359/659, 361, 363, 369pt. (dishtowels), 433, 445/446, 604, 614, 638/639, 647/648, 666, and 669pt. (man-made fiber bags), produced or manufactured in Brazil and exported during the new prorated period which began on April 1, 1987 and extends through December 31, 1987. Carryforward and carryover of 100 percent will be available in the foregoing categories between this and the new restraint period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on March 23, 1987 by the Chairman, Committee for Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Federative Republic of Brazil and exported during the twelve-month period which began on April 1, 1987 and extends through March 31, 1988.

Effective on January 1, 1988, the directive of March 23, 1987 is hereby amended to amend the previously established import restraint limits for cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Brazil and exported during the new restraint period which began on April 1, 1987 and extends through December 31, 1987:

Category	Amended restraint limit
300-369, 400-469, and 600-670, as a group.	216,750,000 years equivalent.
300/301	6,531,364 pounds.
310/318	2,528,100 square yards.
313	23,373,000 square yards.
314	2,623,500 square yards.
315	11,376,450 square yards.
317	10,323,075 square yards.
319	8,427,000 square yards.
334/335	57,304 dozen of which not more than 11,461 dozen shall be in TSUSA numbers 381.4810, 381.4850, 384.3705, 384.3721, 384.3741, 384.3755, 384.3769, 384.3770, 384.3772, and 384.3774.
336	29,495 dozen.
337	82,585 dozen.
338/339	442,418 dozen.
347/348	379,215 dozen of which not more that 75,843 dozen shall be in TSUSA numbers 381.0542, 381.6230, 381.6260, 384.0722, 384.0724, 384.0726, 384.0729, 384.4735, 384.4740, 384.4746 and 384.4747.
350	49,473 dozen.
352	294,945 dozen.
359/659	4,634,850 square yards equivalent.
361	379,215 numbers.
363	11,376,450 numbers.
369pt.[1]	505,620 pounds
433	12,499 dozen.
445/446	48,965 dozen.
604	350,595 pounds.
614	4,213,500 square yards.
638/639	168,540 dozen.
647/648	379,215 dozen.
666	1,348,320 pounds.
669pt.[2]	1,685,400 pounds.

[1] In Category 369pt., dishtowels in TSUSA numbers 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440 and 366.2860.

[2] In Category 669pt., man-made fiber bags in TSUSA number 385.5300.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29758 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the Federative Republic of Brazil

Effective January 1, 1988.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information contact Naomi Freeman, International Trade Specialist, Office of Textile and Apparel, U.S. Department of Commerce, (202) 377-4221. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the three-month period which begins on January 1, 1988 and extends through March 31, 1988, in excess of the designated restraint limits.

Background

Pursuant to consultations held under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 29, 1985, as amended, it was understood that the twelve-month restraint period from April 1, 1987 through March 31, 1988 would be divided into two periods: April 1, 1987 through December 31, 1987 and January 1, 1988 through March 31, 1988 with 100 percent carryover/carryforward available between the two periods. The following directive establishes an aggregate specific limit and, within the aggregate, specific limits for textiles and textile products in Categories 218, 219, 225/317/326, 300/301, 313, 314, 315, 334/335, 336, 337, 338/339, 347/348, 350, 352, 359/659, 361, 363, 369pt. (dishtowels), 433, 445/446, 604, 624, 638/639, 647/648, 666, and 669pt. (man-made fiber bags), produced or manfactured in Brazil and exported during the three-month period which begins on January 1, 1988, and extends through March 31, 1988. The agreement includes sublimits for

corduroy coats and trousers in Categories 334/335 and 347/348.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622) July 16, 1984 (49 FR 28754), November 9, 1984, (49 FR 44782), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilaterial Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 29, 1985, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Brazil and exported during the three-month period which begins on January 1, 1988 and extends through March 31, 1988, in excess of the restraint limits indicated below:

Category	3-month restraint limit
200-239, 300-369, 400-469, and 600-670, as a group.	72,642,245 square yards equivalent.
Sublevels within the group	
218	872,593 square yards.
219	2,739,701 square yards.
225/317/326	3,428,298 square yards.
300/301	2,354,846 pounds
313	8,392,250 square yards.
314	1,004,089 square yards.
315	3,777,745 square yards.
334/335	19,101 dozen of which not more than 3,820 dozen shall be in TSUSA numbers 381.4810, 381.4850, 384.3705, 384.3721, 384.3741, 384.3755, 384.3769, 384.3770, 384.3772, and 384.3774.
336	9,832 dozen.
337	27,528 dozen.
338/339	147,473 dozen.
347/348	126,405 dozen of which not more than 25,281 dozen shall be in TSUSA numbers 381.0542, 381.6230, 381.6260, 384.0722, 384.0724, 384.0726, 384.0729, 384.4735, 384.4740, 384.4746 and 384.4747.
350	16,854 dozen.
352	98,315 dozen.
359/659	1,544,950 pounds.
361	126,405 numbers.
363	3,792,150 numbers.
369-D [1]	168,540 pounds.
433	4,166 dozen.
445/446	16,322 dozen.
604	126,405 pounds.
624	1,350,280 square yards.
638/639	56,180 dozen.
647/648	126,405 dozen.
666	449,440 pounds.
669-P [2]	561,800 pounds.

[1] In Category 369-D, dishtowels in TSUSA numbers 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440 and 366.2860.

[2] In Category 669-P, Man-made fiber bags in TSUSA number 385.5300.

To the extent that trade which now falls in the foregoing categories is within a category limit for the period April 1, 1987 through December 31, 1987, such trade, to the extent of any unfilled balances, shall be charged against the levels of restraint established for such goods during that period. In the event the limits established for that period have been exhausted by previous entries, such good shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of August 7 and 29, 1985, as amended, between the Governments of the United States and the Federal Republic of Brazil which provide, in part, that: (1) specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provision of the bilaterial agreement will be made to you by letter.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 87-29759 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Amendment to the Export Licensing System for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

December 22, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry of the previously designated textiles and textile products from the People's Republic of China visaed using export licenses/commercial invoices printed on green and yellow guilloche patterned background paper for merchandise exported on or after January 1, 1988.

Background

A CITA directive dated February 23, 1984 (49 FR 7269), as further amended on July 29, 1987 (52 FR 28741), established an export licensing system for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China. The Governments of the United States and the People's Republic of China have agreed to further amend the export licensing system, effective on January 1, 1988, to provide for the use of textile export licenses/commercial invoices, issued by the Government of the People's Republic of China for shipments exported on or after January 1, 1988, which are printed on a green guilloche patterned background paper, covering specific limit categories, and yellow guilloche patterned paper, covering non-specific limit categories. The green and yellow forms replace the blue and green licenses/invoices currently in use. The visa stamp is not being changed at this time.

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 22, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of February 23, 1984, as amended on July 29, 1987, which established an export licensing system for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China.

Effective on January 1, 1988, the textile export license/commercial invoice, issued by the Government of the People's Republic of China, will be printed on green and yellow guilloche patterned background paper for merchandise currently subject to the export licensing system, and exported on or after January 1, 1988. The green form will replace the blue form which currently accompanies merchandise in categories covered by specific limits under the agreement, and the yellow form will replace the green form used for non-specific limit categories.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29761 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Restraint Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products Produced or Manufactured in the Socialist Federal Republic of Yugoslavia

Effective on January 1, 1988.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information contact Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption and withdrawal from warehouse of consumption of cotton, wool and man-made fiber textile products, produced or manufactured in Yugoslavia and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988, in excess of the designated limits.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 26 and 27, 1978, as amended and extended, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia, and as translated to the new category system, establishes, among other things, specific limits for cotton, wool and man-made fiber textile products in Categories 340/640, 341/641, 433, 434, 435, 442, 443/643, 444, 447/448, 604-A, 645/646, 666, produced or manufactured in Yugoslavia and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury,
Washington, DC.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 26 and 27, 1978, as amended and extended, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made textile products in the following categories, produced or manufactured in Yugoslavia and exported during the twelve-month period beginning on January 1, 1988 and extending through December 31, 1988, in excess of the following limits:

Category	12-Month Restraint Limit
340/640	382,024 dozen.
341/641	249,100 dozen.
433	7,899 dozen.
434	8,758 dozen.
435	38,637 dozen.
442	10,858 dozen.
443/643	287,844 numbers of which not more than 103,020 numbers shall be in Category 443.
444	91,152 numbers.
447/448	48,424 dozen of which not more than 28,849 dozen shall be in Category 447 and not more than 28,849 dozen shall be in Category 448.
604-A[1]	636,000 pounds.
645/646	116,600 dozen.
666	2,014,000 pounds.

[1] In Category 604-A, only TSUSA numbers 310.5049 and 310.6045.

To the extent that trade which now falls in the foregoing categories is within a category limit for the periods November 1, 1986 and January 1, 1987 through December 31, 1987, such trade, to the extent of any unfilled balances, shall be charged against the levels of restraint established for such goods during those periods. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future according to provisions of the bilateral agreement of October 26 and 27, 1978, as amended and extended, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia which provide, in part, that: (1) carryforward and carryover may not exceed 11 percent and swing may not exceed 6 percent for cotton and man-made fiber and 5 percent for wool, provided that a corresponding reduction in square yard equivalent is made in another specific limit during the same agreement period; and (2) special shift up to 10 percent may be available in Categories 340/640 and 341/641, provided swing is not utilized.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption

to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29760 Filed 12-28-87; 8:45 am]

BILLING CODE 3510-DR

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Panel on Laser Weapons will meet on January 14-15, 1988. The meeting will be held at the Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, Virginia. The meeting will commence at 9:00 A.M. and terminate at 4:30 P.M. on January 14; and commence at 9:00 A.M. and terminate at 4:00 P.M. on January 15, 1988. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide for the Navy an assessment of the potential military value of laser technology for weapon applications. The agenda will include technical briefings and discussions addressing military laser weapon programs. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive Order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander L. W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000, Telephone Number: (202) 696-4870.

Date: December 23, 1987.

W. R. Babington, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liaison Officer.

[FR Doc. 87-29769 Filed 12-28-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 87-65-NG]

Bishop Pipeline Corp., Inc.; Application to Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of applications for blanket authorization to Import Natural Gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) give notice of receipt on November 20, 1987, of an application filed by Bishop Pipeline Corporation, Inc. (Bishop Pipeline), for blanket authorization to import up to 50 MMcf per day and a maximum of 36.5 Bcf of natural gas over a two-year term beginning on the date of first delivery. Bishop Pipeline, a Texas corporation, whose principal place of business is in Houston, Texas, would import gas for its own account or act as a broker for U.S. purchasers or Canadian suppliers. The gas would be sold on a short-term or spot basis to a range of purchasers including local distribution companies, and end-users. The specific terms of each import and sale would be negotiated on an individual basis, including price and volumes. Bishop Pipeline intends to utilize existing pipeline facilties for transportation of the volumes imported. Bishop Pipeline also proposes to submit quarterly reports detailing each transaction.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than January 28, 1988.

FOR FURTHER INFORMATION CONTACT:

Tom Dukes, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20858, (202) 586-9590

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 5876-6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

In the event the ERA approves this request, it may, in order to maximize operating flexibility under the authorization, designate only a total volume of natural gas to be imported during the authorized term rather impose daily limits.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of interventation, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriated action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. They should be be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. E.S.T., January 28, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as

necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary of a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Bishop Pipeline's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 21, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-29723 Filed 12-28-87; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for clearance to the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for apporval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in new or revised regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) Annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection ; and (12) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before January 28, 1988.

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards, at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Carole Patton, Office of Statistical Standards (EI-70), Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586-2222.

SUPPLEMENTARY INFORMATION: If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, you should advice the OMB DOE Desk Officer of your intention to do so as soon as possible. The Desk Office may be telephoned at (202) 395-3084.

The energy information collection submitted to OMB for review were:

1. Energy Information Administration.
2. EIA-176, 191, 400, 627, and 857.
3. 1905-0147, 1905-0026, 1901-0289, 1905-0122, and 1905-0157 respectively.
4. Natural Gas Program Package.
5. Revision—In addition to the revisions outlined in a **Federal Register** Notice, 52 FR 5176, dated February 19, 1987, EIA is proposing to discontinue holding information collected on the EIA-176, Annual Report of Natural and Supplemental Gas Supply and Disposition, as confidential.
6. Monthly, Quarterly, and Annually.
7. Mandatory.
8. Businesses or other for profit, State or local governments, and small businesses or organizations.
9. 2,374 respondents.
10. 7,925 responses.
11. 41,492 hours.
12. The Natural Gas Program Package forms collect production, processing, transmission, storage, consumption, and price data. The data are used to address significant energy industry issues. Data from these forms are published in various EIA publications. Respondents are pipeline companies, distributors, storage operators, plant operators, and State agencies.

Statutory authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93-275, Energy Information Administration Act of 1974, (15 U.S.C. 764(a), 764(b), 772(b), and 790(a)).

Issued in Washington, DC, December 22, 1987.

John Gross,

Acting Director, Statistical Standards, Energy Information Administration.

[FR Doc. 87-29722 Filed 12-28-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CI88-102-000, et al.]

TXO Production Corp. et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

December 23, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and petitions which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 6, 1988, 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

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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 any proceeding herein 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 Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI88-102-000, A, Nov. 9, 1987 [1]	TXO Production Corp., First City Center LB 10, 1700 Pacific Ave., Dallas, TX 75201.	Various Purchasers, Napoleonville Field, Assumption Parish, LA.	(2)	
CI88-126-000, B, Nov. 9, 1987 [1]	do	Southern Natural Gas Co., Napoleonville Field, Assumption Parish, LA.	(3)	
CI88-64-000, A, Nov. 6, 1987	do	Various Purchasers, South Drew Area, Quachita Parish, LA.	(4)	
CI88-69-000 (CI84-501-000), B, Nov. 6, 1987.	do	Arkansas Louisiana Gas Co., South Drew Area, Quachita Parish, LA.	(5)	
CI88-85-000, A, Nov. 6, 1987	do	Various Purchasers, Cheniere Field, Quachita Parish, LA.	(6)	
CI88-86-000, B, Nov. 6, 1987	do	Arkansas Louisiana Gas Co., Cheniere Field, Quachita Parish, LA.	(7)	
G-6839-004, D, Dec. 10, 1987	Sun Exploration & Production Co., P.O. Box 2880, Dallas, TX 75221-2880.	Texas Eastern Transmission Corp., Stowell Field, Chambers County, TX.	(8)	
G-6839-003, D, Dec. 10, 1987	do	do	(9)	
G-6839-002, D, Dec. 10, 1987	do	North Winnie Field, Chambers County, TX	(10)	
G-16218-005, D, Dec. 11, 1987	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, CA 94120-7309.	Transwestern Pipeline Co., Laverne Field, Harper County, OK.	(11)	

[1] Additional information received Dec. 14, 1987.

[2] Applicant requests a 3-year blanket limited-term certificate with pregranted abandonment to sell gas subject to the abandonment application in Docket No. CI88-126-000 in interstate commerce to various purchasers.

[3] Applicant requests permanent abandonment of sales of gas to Southern.

In support of the application Applicant states that due to market demands Southern curtailed purchases of gas and Applicant's sales have been limited and intermittent. On Aug. 31, 1987, the contract terminated on its own terms. Deliverability is approximately 1,050 Mcf/day. The gas is NGPA section 104 replacement contract gas.

[4] Applicants request a blanket certificate to sell gas subject to the abandonment application in Docket No. CI88-69-000 in interstate commerce to various puchasers.

[5] Applicant requests permanent abandonment of sales of gas to Arkla.

In support of the application Applicant states that has experienced limited and intermittent sales due to Arkla's market demands. Applicant wishes to seek possible alternative markets.

[6] Applicant requests a blanket certificate to sell gas subject to the abandonment application in Docket No. CI88-86-000 in interstate commerce to various purchasers.

[7] Applicant requests permanent abandonment of sales of gas to Arkla.

In support of the application Applicant states that it has experienced limited and intermittent sales due to Arkla's market demands. The contract has expired. Applicant wishes to seek possible alternative markets.

[8] Sun assigned its interest in Property No. 421350, A.G. Blanke, Jr., and Houston Royalty Co., Lease No. 52685 to Hawk Petroleum Co., Inc., effective Nov. 1, 1983.

[9] Sun assigned its interest in Property No. 539904, Hankamer Oil Unit, Lease No. 58145, Cora Sikma, *et al.*, to William L. Puls, effective Mar. 1, 1984.

[10] Sun assigned its interest in Property No. 549800, Lease No. 50288, Bettie C. Green, to J.G. Joyce, 66.67%; and Crest Resources & Exploration Corp., 33.33%, effective June 8, 1984.

[11] Certain acreage has been assigned to Cross Timbers Oil Co., effective July 1, 1987.

Filing Code: A—Initial Service., B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 87-29786 Filed 12-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI86-737-002 and

CI86-738-002]

Arkla Energy Resources, a Division of Arkla, Inc.; Applications for Extension of Blanket Limited-Term Abandonment and Blanket Limited-Term Certificate With Pregranted Abandonment on Behalf of Producer-Suppliers

December 23, 1987

Take notice that on December 3 and 8, 1987, Arkla Energy Resources (AER), a division of Arkla, Inc., P.O. Box 21734, Shreveport, Louisiana 71151, pursuant to Section 7 of the Natural Gas Act, and Sections 154 and 157 of the Commission's Regulations, on behalf of its producer-suppliers filed applications for a three-year extension of the blanket limited-term abandonment authorization and of the blanket limited-term certificate of public convenience and necessity with pregranted abandonment initially granted to it on January 21, 1987, for a term of one year. Such authorization is scheduled to expire on January 21, 1988.

AER states that the benefits it sought to obtain by filing its original applications have in fact been realized by AER's LTA program. Under AER's LTA program, eligible producer-suppliers have sold gas that AER has temporarily released from its contracts with those producer-suppliers. These third-party sales enable eligible producer-suppliers to maintain their production instead of having it curtailed for lack of markets. These transactions also afford AER an opportunity to obtain relief from any take-or-pay obligations it may have with eligible producer-suppliers. All quantities released and sold enter the market place at market-responsive prices, promoting competition and providing consumers with lower-priced gas. Finally, transportation of gas sold under AER's LTA authority has helped to maintain throughput levels on AER's pipeling system, thereby benefitting all of AER's customers. AER believes that these benefits will continue to accrue in the future, and may increase if the Commission extends the existing authorizations for three years.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene in order to give the Commission adequate time to consider AER's requests, since AER's existing authorization expires January 21, 1988, and lack of continued authority could exacerbate AER's take-or-pay problem. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before January 4, 1988, 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 any proceeding herein 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 AER to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29787 Filed 12-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-23-001]

Eastern Shore Natural Gas Co.; Tariff Filing

December 23, 1987.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on December 17, 1987 tendered for filing the following tariff sheets to original Volume No. 1 of its FERC Gas Tariff:

Revised Tariff Sheets To Be Effective November 1, 1987

Substitute Thirty-Sixth Revised Sheet No. 5
Substitute Thirty-Sixth Revised Sheet No. 6
Substitute Thirty-Sixth Revised Sheet No. 10
Substitute Thirty-Sixth Revised Sheet No. 11
Substitute Thirty-Sixth Revised Sheet No. 12
Substitute Thirty-Sixth Revised Sheet No. 13
Substitute Seventh Revised Sheet No. 14

Proposed Tariff Sheets To Be Effective January 15, 1987

Second Revised Sheet No. 230
First Revised Sheet No. 242
First Revised Sheet No. 243
First Revised Sheet No. 244

Revised Tariff Sheets to Correct Designation in Previously Filed Tariff Sheets

Thirty-Sixth Revised Sheet No. 5
Thirty-Sixth Revised Sheet No. 6
Thirty-Sixth Revised Sheet No. 10
Thirty-Sixth Revised Sheet No. 11
Thirty-Sixth Revised Sheet No. 12
Thirteenth Revised Sheet No. 13
Seventh Revised Sheet No. 14

Eastern Shore states that the purpose of the tariff sheets is to revise certain tariff sheets in compliance with the Commission's November 13, 1987 Order in Docket No. TA88-1-23-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 31, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29788 Filed 12-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates and Tariff Provisions

December 23, 1987.

Take notice that on December 17, 1987, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, tendered for filing with the Commission the revised tariff sheets listed below in its FERC Gas tariff, First Revised Volume No. 1 containing changes in rates and tariff provisions for effectiveness on January 1, 1988.

Second Substitute Twenty-First Revised Sheet No. 7
Seventh Revised Sheet No. 7-A
Substitute Original Sheet No. 7-B
Substitute Twelfth Revised Sheet No. 9
Fourth Revised Sheet No. 11
Substitute Second Revised Sheet No. 67
Second Substitute Fifth Revised Sheet No. 68
Substitute Second Revised Sheet No. 69
Second Substitute Fourth Revised Sheet No. 70
Substitute Second Revised Sheet No. 70-A
Second Substitute Third Revised Sheet No. 71
Substitute Second Revised Sheet No. 71-A
Second Substitute Third Revised Sheet No. 72
Second Substitute Fourth Revised Sheet No. 75
Second Substitute Second Revised Sheet No. 75-A
Second Substitute First Revised Sheet No. 75-B
Third Substitute Original Sheet No. 75-C
Substitute First Revised Sheet No. 78
Substitute First Revised Sheet No. 79
Second Revised Sheet No. 81
Third Substitute First Revised Sheet No. 82
Original Sheet No. 82-A
Original Sheet No. 82-B
Substitute Original Sheet No. 85
Substitute Original Sheet No. 86
Second Substitute Second Revised Sheet No. 112

The filing also includes Second Substitute Original Sheet No. 75-C for effectiveness on November 27, 1987.

According to Granite State, the proposed rate and tariff changes are applicable to jurisdictional services rendered to Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities). Granite State further states that the rate and tariff changes: (1) Track changes in the cost of gas at suppliers' rates that will be in effect on January 1, 1988; (2) reflect the amortization of the balance of unrecovered purchase gas costs and associated carrying charges on Granite State's books as of September 30, 1987; (3) revise a transportation cost adjustment for the cost of a transportation service rendered by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. under Rate Schedule CGT-NE; (4) revise certain sections of the purchased gas cost adjustment provisions in its tariff to reflect the receipt of additional volumes of firm gas upon the commencement of the Phase 2 deliveries of the Boundary Gas, Inc. project and the elimination of incremental pricing surcharge adjustments pursuant to Commission Order No. 478; and (5) establish a Gas Research Institute surcharge provision applicable to certain volumes of gas purchased from Canadian sources. According to Granite State, the revised sales rates in this filing result in an increase of $1,410,234 annually for sales to Bay State and $156,440 annually for sales to Northern Utilities.

According to Granite State copies of its filing were served upon its customers, Bay State and Northern Utilities, and the regulatory commissions of the States of Maine and Massachusetts and New Hampshire.

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, N.E., Washington, DC. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 31, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29789 Filed 12-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP87-62-000 and RP86-148-000]

Pacific Gas Transmission Co.; Informal Settlement Conference

December 23, 1987.

Take notice that an informal settlement conference will be convened in the above proceeding on January 13, 1988, at 9:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

Any party, as defined by 18 CFR 385.102(c), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact William J. Collins (202) 357-5646 or John C. Walley (202) 357-8458.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29790 Filed 12-28-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of October 23 Through October 30, 1987

During the week of October 23 through October 30, 1987, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the applications within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 22, 1987.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARING AND APPEALS

[Week of October 23 through October 30, 1987]

Date	*Name and location of applicant*	*Case No.*	*Type of submission*
Oct. 27, 1987	Pacific Motors Trucking Company, Washington, DC.	RR270-22	Request for modification/rescission in the Stripper well litigation proceeding. If granted: The September 24, 1987 Decision and Order issued to Pacific Motor Trucking Company (Case No. RF270-1263) would be modified and the firm's application for refund as a surface transporter in the stripper well litigation proceeding would be approved.
Oct. 27, 1987	Sause Brothers Ocean Towing, Washington, DC.	RR271-9	Request for modification/rescission in the stripper well litigation refund proceeding. If granted: The October 7, 1987 Decision and Order issued to Sause Brothers (Case No. FR271-165) would be modified and the firm's application for refund as a rail and water transporter in the stripper well litigation proceeding would be approved.
Oct. 27, 1987	Washington Public Power Supply System Richland, Washington.	KFA-0135	Appeal of an information request denial. If granted: The September 29, 1987 Freedom of Information Request Denial issued by the DOE Richland Operations Office would be rescinded and the Washington Public Power Supply System would receive access to a copy of a report prepared by David, Wright & Jones under contract to Battelle Pacific Northwest Laboratories.
Oct. 29, 1987	Arizona, Phoenix, Arizona	KEG-0021	Petition for Special Redress. If granted: The Office of Hearings and Appeals would approve Arizona's proposed expenditures of Stripper Well funds which were disapproved by the Assistant Secretary for Conservation and Renewable Energy.

REFUND APPLICATIONS RECEIVED

[Week of October 23 to October 30, 1987]

Date	Name	Case No.
08/28/87	Halbur Oil Co., Inc.	RF265-2578
09/16/87	Friendly Service Oil Co.	RF225-10917
10/22/87	East Penn Manufacturing Co.	RF299-28
10/22/87	Hill View Suburban Gas	RF299-29
10/22/87	General Mills, Inc.	RF299-30
10/22/87	Albright's Mill	RF299-31
10/22/87	Pacific Motor Trucking	RF270-2493
10/23/87 thru 10/30/87	Crude Oil Refund Applications Received.	RF272-8492 thru RF272-9096
10/23/87	A. C. B. Trucking, Inc.	RF270-2494
10/23/87	Dick Huizenga Trucking	RF238-81
10/23/87	Santa Fe Rock & Sand	RF238-82
10/23/87	John P. Hamm	RF265-2579
10/23/87	Knotty Pine Oil Co., Inc.	RF265-2580

REFUND APPLICATIONS RECEIVED—Continued

[Week of October 23 to October 30, 1987]

Date	Name	Case No.
10/23/87 thru 10/30/87	Gulf Oil Refund Applications Received.	RF3000-2711 thru RF300-3072
10/26/87	King Fifth Wheel Co.	RF299-32
10/26/87	Manufacturers Cartage Co.	RF270-2486
10/26/87	Sun Transport, Inc.	RF271-235
10/26/87	Puget Sound Freight Lines	RF271-236
10/28/87	Hardesty Oil Co.	RF253-33
10/28/87	Madison Bottling Co.	RF270-2495
10/28/87	Tri Boro Taxi Cab Co., Inc.	RF270-2496

[FR Doc. 87-29743 Filed 12-28-87; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed During the Week of October 30 Through November 6, 1987

During the Week of October 30 through November 6, 1987, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of

service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 22, 1987.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of October 30 through November 6, 1987]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 30, 1987	Hanford Education Action League, Spokane, Washington.	KFA-0136	Appeal of an information request denial. If granted: The September 25, 1987 Freedom of Information Request Denial issued by the DOE Richland Operations Office would be rescinded and Hanford Education Action League would receive access to information regarding accident reports at the Hanford site.
Oct. 30, 1987	Mt. Airy Refining Company, Washington, DC.	KRD-0322 KRH-0322	Motions for discovery and evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to a Proposed Remedial Order issued to Mt. Airy Refining Company (Case No. KRO-0320).
Nov. 2, 1987	Atlantic Richfield Company, Washington, DC.	KFA-0137	Appeal of an information request denial. If granted: The October 2, 1987 Decision and Order (Case No. KFA-0115) issued to U.S.A. Petroleum Corp. would be modified and its implementation would be stayed pending further reconsideration and judicial review.
Nov. 2, 1987	Dover Garage II, Inc., New York, New York.	RR270-33	Request for modification/rescission in the stripper well litigation. If granted: The October 5, 1987 Decision and Order issued to Dover Garage II, Inc. (Case No. RF270-1251) would be modified and the firm's application for refund as a surface transporter in the stripper well litigation would be approved.
Nov. 3, 1987	Highway Oil Company, Inc., Washington, DC.	KRD-0031	Motion for discovery. If granted: Discovery would be granted to Highway Oil Company, Inc., in connection with its Statement of Objections to a Proposed Remedial Order issued to the firm (Case No. HRO-0123).
Nov. 3, 1987	Maine, Augusta, Maine	KEG-0022	Petition for special redress. If granted: The Office of Hearings and Appeals would review and approve Maine's proposed expenditures for Stripper Well funds which were disapproved by the Assistant Secretary for Conservation and Renewable Energy.
Nov. 3, 1987	Reco Petroleum, Inc., Reading, Pennsylvania.	KEE-0156	Exception to the reporting requirements. If granted: Reco Petroleum, Inc. would no longer be required to file Form EIA-782B, the "Resellers/Retailers' Monthly Petroleum Product Sales Report."
Nov. 4, 1987	Giant Industries, Inc., Washington, DC	RR270-24	Request for modification/rescission in the stripper well litigation proceeding. If granted: The October 5, 1987 Decision and Order issued to Giant Industries (Case No. RF270-437) would be modified and the firm's application for refund as a surface transporter in the stripper well litigation proceeding would be approved.
Nov. 4, 1987	M.A. Malik, Hartford, Connecticut	KFA-0138	Appeal of an information request denial. If granted: The October 23, 1987 Freedom of Information Request Denial issued by the Office of Scientific and Technical Information, Oak Ridge Operations Office, would be rescined and M.A. Malik would receive access to certain DOE "CAPE packages."

REFUND APPLICATIONS RECEIVED

[Week of Oct. 30 to Nov. 6, 1987]

Date received	Name of Refund Proceeding/ Name of Refund Applicant	Case No.
10/30/87 thru 11/6/87	Crude Oil Refund Applications Received.	RF272-9097 thru RF272-9664
10/30/87 thru 11/6/87	Gulf Oil Refund Applications Received.	RF300-3078 thru RF300-3375
11/3/87	Stroehmann Bakeries, Inc.	RF270-2498
11/3/87	Ford Motor Co.	RF270-2497

REFUND APPLICATIONS RECEIVED—Continued

[Week of Oct. 30 to Nov. 6, 1987]

Date received	Name of Refund Proceeding/ Name of Refund Applicant	Case No.
11/2/87	Spicola's Superb Gas Co.	RF253-34
10/30/87	Williams Brothers Supply Co.	RF253-35
10/30/87	Liquid Petroleum Corp.	RF253-36
11/2/87	Apex Towing Co.	RF271-237
11/5/87	Minnesota, Dakota & Western	RF271-238
11/4/87	Orth Oil, Inc.	RF250-2740
11/9/87	Alex's Service Station	RF265-2582
11/9/87	Rehoboth Util. Gas & Appliance	RF299-33

REFUND APPLICATIONS RECEIVED—Continued

[Week of Oct. 30 to Nov. 6, 1987]

Date received	Name of Refund Proceeding/ Name of Refund Applicant	Case No.
11/5/87	Blu Gas Service, Inc.	RF299-34
11/5/87	General Refractories Co.	RF299-35
11/5/87	Federico Bros., Inc.	RF299-36

[FR Doc. 87-29744 Filed 12-28-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of October 26 Through October 30, 1987

During the week of October 26 through October 30, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Coalition for Safe Power, 10/27/87, KFA-0125

The Coalition for Safe Power (Coalition) filed an Appeal from a denial by the Chief of the Information Technology Management Branch (Authorizing Official) of the DOE Richland Operations Office (Richland) of a request for a fee waiver. The Coalition's FOIA request sought a waiver of the fee for duplicating the May 1987 "Hanford Site Waste Management Report" (Report). The Report was available for public inspection in the Richland Public Reading Room at the time of the Coalition's request. In considering the Appeal, the DOE found that DOE's policy of denying fee waivers for documents already available in a DOE Public Reading Room is permissible under the FOIA. Accordingly, the Appeal was denied.

E. B. Brooks, Jr., 10/27/87, HRA-0009

On April 26, 1985, E.B. Brooks, Jr. (Brooks) filed an Appeal from a Modified Remedial Order (MRO) issued to the firm by the Economic Regulatory Administration (ERA) on April 10, 1985. The MRO modified provisions of a Remedial Order (RO) issued to Brooks on July 25, 1977. According to the MRO, Brooks never complied with the RO which ordered restitution for crude oil overcharges. In its Appeal, Brooks claimed credit for refunds in the form of price rollbacks between July 1977 and June 1981. After considering Brooks' Appeal, the Office of Hearings and Appeals (OHA) concluded: (1) that Brooks had made substantial partial payments of principal and interest owed under the RO, and (2) that ERA's calculation of the remaining amount owed by Brooks was incorrect. OHA, therefore, denied Brooks' Appeal and issued the MRO, with amendments, as a final Remedial Order. The final order requires ERA to notify the firm of its remaining liability after ERA correctly calculates that liability. The decision also addresses such matters as the proper application of Brooks' partial payments to principal and accrued interest, and the nonacceptability of tolling interest charges during a period when the original RO was stayed, as well as the proper application of DOE policy concerning the compounding of interest.

Remedial Order

Intercoastal Operating Co., Inc., 10/29/87, HRO-0192

The DOE issued a final Remedial Order to Intercoastal Operating Co., a related company, two officers/working interest owners and three additional working interest owners, affirming with modifications a Proposed Remedial Order (PRO) that the Economic Regulatory Administration (ERA) issued to them on August 18, 1983. In the PRO, ERA alleged that during the period September 1973 through September 1980, IOC sold crude oil at prices in excess of those permitted by DOE regulations, in many instances by improperly certifying certain properties as stripper well properties. In its Statement of Objections, the firm attempted to demonstrate that ERA used incorrect well count data, obtained from contemporaneous reports IOC filed with a Louisiana state regulatory agency, to calculate the average daily production for one of the properties, and that more reliable evidence of well count data was available. After considering the evidence in the record, the DOE determined that ERA's reliance on the state reports was justified and that no more accurate data was available. The DOE concluded that the PRO should be issued in final form, with modifications of the interest calculation and refund disposition provisions to reflect current DOE policy.

Motion for Discovery

Cities Service Oil and Gas Corp., 10/27/87, KRD-0030

Cities Service Oil and Gas Corporation (Cities) filed a Motion for Discovery in connection with an enforcement proceeding involving the firm. In its discovery request, Cities requested that the ERA and its prospective witnesses produce documents in order to permit the firm to prepare for an upcoming evidentiary hearing. With respect to certain documents primarily concerning tier trades of crude oil with Cities, the DOE determined that discovery was warranted. Accordingly, the Motion for Discovery was granted in part.

Refund Applications

A.C.B. Trucking, Inc., 10/27/87, RF270-2494

The DOE issued a Decision and Order revising a previous Decision which granted refunds to several applicants in the Surface Transporters refund proceeding, *Anderson Trucking Service, Inc.*, 16 DOE ¶ 85,132 (1987) (*Anderson*), since the volume approved for one of the applicants, A.C.B. Trucking, Inc. (A.C.B.), was incorrect. Specifically, the DOE found that virtually all of A.C.B.'s claimed purchase volumes were for fuel purchased by owner-operators hired by the firm during the Settlement Period. Since A.C.B. did not actually purchase the fuel used by its owner-operators, and the volume of fuel it did purchase was less than the 250,000 gallon threshold for eligibility, it is ineligible to receive a refund. The DOE therefore modified *Anderson* to deny A.C.B.'s Application for Refund.

Bernard A. Krouse d/b/a BAK Ltd./Portland Heating Oil Company, 10/26/87, RF300-3

The DOE issued a Decision and Order, granting an Application for Refund filed by Portland Heating Oil Company, from the consent order fund obtained by the DOE from Bernard A. Krouse d/b/a BAK LTD. The applicant elected to apply for a refund based upon the presumptions set forth in *Bernard A. Krouse* d/b/a *BAK LTD*, 16 DOE ¶ 85,389 (1987). The refund granted in this proceeding totals $2,599 ($1,377 in principal and $1,222 in interest).

Bronson Community Schools et al., 10/27/87, RF272-91, et al.

The DOE issued a Decision and Order considering the applications filed by Bronson Community Schools and four other claimants seeking refunds for crude oil overcharges. Each applicant demonstrated the volumes of refined petroleum products that it purchased during the covered period. Further, since each applicant established that it was an end-user of those products, each was presumed to have been injured by the alleged crude oil overcharges. Accordingly, the five applications were approved. The sum of the refunds granted in this determination is $2,060.

CenTra, Inc. et al., 10/26/87, RF270-1196

The DOE issued a Decision and Order approving the Application for Refund from the Surface Transporters Escrow submitted by CenTra, Inc. on behalf of its subsidiaries. The DOE made adjustments in the gallons claimed by CenTra, Inc. to exclude the volume of petroleum products purchased by the

firm's leased owner-operators. The total number of gallons approved in this Decision and Order was 342,418,845.

Cranston Oil Service Company, Inc./ Amee's Gift Shop et al., 10/28/87, RF276-1, et al.

The DOE issued a Decision and Order concerning ten Applications for Refund filed by end-users of No. 2 heating oil covered by a consent order that the agency entered into with Cranston Oil Service Company Inc., and its successor-in-interest, Galego Oil Company. The Applications were evaluated in accordance with procedures set forth in *Cranston Oil Service Co.*, 14 DOE ¶ 85,499 (1986). The sum of the refunds approved in this Decision is $305, representing $269 in principal and $36 in interest.

Getty Fleet Corp., Slay Warehousing Co., Texaco Marine Service, Inc., 10/27/87, RF271-59, RF271-80, RF271-82.

The Office of Hearings and Appeals (OHA) issued a Decision and Order granting the Applications for Refund from the Rail and Water Transporters (RWT) Escrow filed by three firms. OHA found that all three companies were members of the class for which the RWT Escrow was established, and that each company had adequately supported the volume of petroleum products which it claimed to have purchased during the Settlement Period. The total amount of gallons approved in this Decision and Order was 511,812,513.

Getty Oil Company/Farmers Union Cooperative Assn. et al., 10/29/87, RF265-195, et al.

The DOE issued a Decision and Order concerning 13 Applications for Refund filed by end-users of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of Getty products that were purchased. As end-users, these applicants were entitled to receive the full volumetric refund. The sum of the refunds approved in this Decision is $26,605, representing $13,245 in principal and $13,360 in accrued interest.

Getty Oil Company/International Drilling & Energy Corporation el al., 10/26/87; RF265-55 et al.

The DOE issued a Decision and Order concerning 54 Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In 43 of these cases, the applicants were eligible for a refund below the $5,000 threshold. In the remaining 11 cases, the applicants elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $234,363, representing $116,838 in principal and $117,525 in accrued interest.

Leo's-Winstead's Inc./Joe's Service Center et al., 10/26/87; RF294-2 et al.

The DOE issued a Decision and Order concerning six Applications for Refund filed by purchasers of Nos. 1 and 2 fuel oil and motor gasoline from Leo's-Winstead's, Inc. (Leo's). Each firm applied for a refund based on the procedures outlined in *Leo's-Winstead's, Inc.*, 15 DOE ¶ 85,514 (1987), governing the disbursement of settlement funds received from Leo's pursuant to a September 3, 1981 Consent Order. Three of the applicants, Joe's Service Center, Keith's Service, and McCall Service Stations, Inc., are retailers of Leo's covered products who claimed refunds of less that $5,000. Using the small claims presumption for resellers, the DOE concluded that they were injured. The remaining applicants, Marcum Distributing Company, Botsford Ready Mix Co. and Butler Manufacturing Company, are end-users of Leo's covered products, and are therefore presumed to have been injured. After examining the applications and supporting documentation submitted by the claimants, the DOE concluded that they should receive refunds totaling $13,712, representing $11,623 in principal and $2,089 in accrued interest.

Marathon Petroleum Company/G & G Oil Company of Indiana, 10/28/87; RF250-2412, RF250-2413.

The DOE issued a Decision and Order concerning an Application for Refund filed by G & G Oil Company of Indiana, a reseller of products covered by a consent order that the agency entered into with Marathon Petroleum Company. The Applicant demonstrated the volume of its purchases from Marathon, and accepted the presumption of injury for medium range claimants in the Marathon refund proceeding by limiting its claim to 35 percent of its allocable share. The refund approved in this Decision is $6,311 in principal and $796 in interest.

Marathon Petroleum Company/ T & M Oil Co., Inc., 10/28/87; RF250-2724.

The DOE issued a Decision and Order concerning an Application for Refund filed by T & M Oil Co., Inc., a retailer of motor gasoline covered by a consent order that the agency entered into with Marathon Petroleum Company. The Applicant demonstrated the volume of its purchases from Marathon, and accepted the presumption of injury for medium range claimants in the Marathon refund proceeding by limiting its claim to 35 percent of its allocable share. The refund approved in this Decision is $19,222 in principal and $2,426 in interest.

Marathon Petroleum Company/Witham Sales & Service, Don Foster Oil Company, 10/28/87; RF250-2410, RF250-2411, RF250-2414, RF250-2415.

The DOE issued a Decision and Order concerning the Applications for Refund filed on behalf of Witham Sales & Service and Don Foster Oil Company, both retailers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each Applicant demonstrated the volume of its Marathon purchases, and elected to accept the presumption of injury for medium range claimants in the Marathon proceeding by limiting its claim to 35 percent of its allocable share. The total amount of the refunds approved in this Decision is $12,418 in principal and $1,567 in interest.

Maritime Overseas Corp., 10/28/87; RR272-4

The Office of Hearings and Appeals (OHA) issued a Decision and Order, denying a Motion for Reconsideration filed by Maritime Overseas Corporation. Maritime's motion sought the reversal of a previous OHA Order denying Maritime's Application for Refund from OHA's Subpart V crude oil proceeding. In sustaining its previous Order, OHA pointed to the fact that Maritime had waived its rights to participate in Subpart V by filing an Application for Refund from the M.D.L. 378 Escrow account established for Rail and Water Transporters.

Nash Finch Company, 10/26/87; RF270-567

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonage of refined petroleum products claimed by Nash Finch Company. The DOE will use that gallonage as a basis for the refund that will ultimately be disbursed to the firm. The DOE stated that because the size of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual

amount of the firm's refund will be determined at a later date.

National Helium Corp./Louisiana, Standard Oil Co. (Indiana)/ Louisiana, Charter Co./Louisiana, OKC Corp./Louisiana, 10/28/87; RM-3,78, RM21-79, RM23-83, RM13-84.

The DOE issued a Decision and Order approving the Motions for Modification filed by the State of Louisiana in the National Helium Corp., Standard Oil Co. (Indiana), Charter Co., and OKC Corp. refund proceedings. In accordance with the Decision, Louisiana may modify its previously-approved plans for use of second-stage monies and may use $16,144 for administrative expenses. In addition, the New Orleans Vanpool Program may offer its rideshare services to other regions of Louisiana. In evaluating the Motions, the DOE found that these modifications were consistent with the analysis and criteria applied by the DOE when it evaluated the State's original plans.

Pacific Motor Trucking Co., 10/27/87; RF270-2493

The Office of Hearings and Appeals (OHA) issued a Decision and Order granting Pacific Motor Trucking Co.'s Application for Refund from the Surface Transporters (ST) Escrow. OHA had previously denied Pacific Motor's ST application because Pacific Motor's separately incorporated affiliate had filed for a refund from the Rail and Water Transporters (RWT) Escrow. It was OHA's original position that such multiple applications were prohibited by the terms of the ST and RWT Releases. Based on a revised interpretation of those Releases, OHA reinstated and approved Pacific Motor's application. Pacific Motor's refund will be based on its purchases of 115,928,122 gallons of U.S. petroleum products.

Petroleum Heat and Power Co., Inc. William Parese et al., 10 /28/87; RF285-1 et al.

The DOE issued a Decision and Order concerning the Applications for Refund filed by 12 end-users of Petroleum Heat and Power Co., Inc. (PH&P) No. 2 heating oil. The applicants applied for refunds based on the procedures outlined in *Petroleum Heat and Power Co., Inc.*, 15 DOE ¶85,036 (1986), governing the disbursement of settlement funds received from PH&P pursuant to a November 13, 1980 Consent Order. Since all of the claimants were end-users, they were presumed to have been injured by PH&P's alleged overcharges. After examining the applications and supporting documentation submitted by the applicants, the DOE granted them refunds totaling $385, representing $234 in principal and $151 in accrued interest.

Pyrofac Gas Corporation/Andrew J. Visotsky, Paul A. Martin, 10/27/87, RF277-29, RF277-37.

The DOE issued a Decision and Order concerning two Applications for Refund filed by purchasers of Pyrofax propane. Each individual applied for a refund based on the procedures outlined in *Pyrofax Gas Corp.*, 15 DOE ¶ 85,494 (1987) (*Pyrofax*), governing the disbursement of settlement funds received from Pyrofax pursuant to a March 23, 1981 Consent Order. The applications were submitted by two individual who were end-users of Pyrofax propane. Both applicants submitted information from which the DOE was able to establish their purchase volumes. In accordance with the procedures in *Pyrofax*, end-users were presumed to be injured. After examining the applications and supporting documentation submitted by the claimants, the DOE concluded that they should receive refunds totaling $63, representing $35 in principal and $28 in accrued interest.

Roberts Diary Co., Mid-America Dairymen, Inc., 10/28/87, RF270-1334, RF272-443.

The Department of Energy (DOE) issued a Decision and Order concerning the Application for Refund from the Surface Transporter Escrow filed by Roberts Dairy Co. and the Application for Refund from the Subpart V crude oil refund proceeding filed by Mid-America Dairymen, Inc. In the Decision, the DOE found that when Robert submitted a Surface Transporter refund application, it waived its right and the right of its affiliates, including Mid-America Dairymen, to any claim to monies from the Subpart V crude oil refund proceeding. Accordingly, the DOE dismissed Mid-America's Subpart V refund application and proceeded with its analysis of Roberts' Surface Transporter claim. As a Surface Transporter, Roberts will be eligible to receive a refund based on its purchases of 4,237,036 gallons of petroleum products. A per gallon refund amount and the total amount of Roberts' refund will be determined after the DOE completes it analysis of all Surface Transporter claims.

Standard Oil Co. (Indiana)/Montana, 10/28/87, FRM251-82

The DOE issued a Decision and Order regarding a Motion for Reconsideration filed by the State of Montana in the Standard Oil Company (Indiana) second-stage refund proceeding. The Motion requested approval of a highway lighting program previously denied in *Standard Oil Company (Indiana)/ Montana*, 16 DOE ¶ 85,308 (1987). Specifically, Montana requested permission to use $123,752 for a proposal to replace 1,118 mercury vapor lights with more energy efficient high pressure sodium lights. The DOE found that the program will result in energy conservation and it was therefore approved.

57th Street Management Corp., 10/28/87, RF270-157.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for Surface Transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the volume of refined petroleum products claimed by 57th Street Management Corp. (57th Street), the operator of a fleet of taxicabs, and will use that volume as a basis for the refund that will ultimately be issued to 57th Street. The Decision stated that because the size of a Surface Transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amount of 57th Street's refund will be determined at a later date. The total volume approved in this Decision is 18,277,276 gallons.

Dismissal

The following submissions were dismissed:

Champion International Corp	RF272-1778
Dixie Chemical Corp	RF277-12
Kimberly-Clark Integrated Services Crop.	RF272-471
Luxuray, Inc	RF265-262
Mr. Taxi, Inc	RF270-538
Myer's Propane Gas Service, Inc	RF277-84
Rolla Public Schools	RF293-6
Royal Taxi, Inc	RF270-539
Smith Fuels, Inc	KEE-0141
Tenafly Taxi, Inc	RF270-540
Triangle Oil Company	KEE-0132
University of Missouri-Rolla	RF293-4

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter.

December 22, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 87-29745 Filed 12-28-87; 8:45 am]

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Issuance of Decisions and Orders During the Week of November 2 Through November 6, 1987

During the week of November 2 through November 6, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Coalition for Safe Power, 11/4/87, KFA-0128

The Coalition for Safe Power filed an Appeal from a denial by the Assistant Secretary of the DOE's Office of Environment, Safety and health of a Request for Information which the Coalition had submitted under the Freedom of Information Act (FOIA). The Coalition sought access to the working papers of an environmental survey preliminary report on the Hanford Reservation Site. In considering the Appeal, the DOE found that the working papers were properly withheld in their entirety under Exemption 5 of the FOIA. The DOE concluded that the working papers did not contain any segregable factual information which could be released without compromising the deliberative process because the factual material in the working papers was either inextricably intertwined with the deliberative material, or served as the basis for the author's tentative recommendations and conclusions. In addition, the DOE determined that the agency did not waiver its deliberative process privilege by providing a copy of the working papers to Representative Ronald L. Wyden of Oregon in his official capacity as a member of the House Energy and Commerce Committee. The DOE further found that the unauthorized leak of this information to the press did not waive the privilege. Accordingly, the Appeal was denied.

Stephen Quakenbush, 11/3/87, KFA-0126

Stephen Quakenbush filed an Appeal from a denial by the Director of the Classification and Technical Information Division of the DOE Albuquerque Operations Office of a Request for Information which he submitted under the Freedom of Information Act (FOIA). The appellant sought access to information compiled pursuant to his request for a security clearance. The Authorizing Official denied his request for the information under Exemption 7A of the FOIA. The DOE found that the Authorizing Official did not provide even a generic index of the withheld documents nor explain why they were exempt from disclosure under Exemption 7A. In addition, the DOE found that all of the information in the file could not be properly exempted under Exemption 7A, but might be subject to other FOIA exemptions. Accordingly, the matter was remanded to the Authorizing Official for further consideration.

USA Petroleum Corp., Atlantic Richfield Co., 11/3/87, KFA-0134, KFA-0131

The Department of Energy (DOE) granted two motions filed by USA Petroleum Corp. (USAP) and the Atlantic Richfield Company (ARCO), respectively, in connection with an October 2, 1987 Decision and Order concerning a Freedom of Information Act (FOIA) Appeal filed by USAP. *USA Petroleum Corp.*, 16 DOE ¶ 80,119 (1987). The DOE agreed with USAP that the ordering paragraphs of the Decision should be clarified to ensure that ARCO's Refiner's Monthly Cost Allocation Reports pertaining to the period of petroleum price controls should be released regardless of when they were filed. The DOE also agreed with ARCO that footnote eight, concerning the origin of a spreadsheet referred to in the Decision, should be deleted. The DOE ordered the October 2 Decision modified accordingly.

Remedial Order

Tonkawa Refining Company, 11/2/87, HRO-0301

Tonkawa Refining Company objected to a Proposed Remedial Order issued to the firm by the Economic Regulatory Administration. In the PRO, the ERA alleged that during the period January through December 1980, Tonkawa inaccurately reported to the Entitlements Program the volume and regulatory tier classification of its crude oil receipts, in violation of 10 CFR 211.66(b) and (h). The PRO concluded that Tonkawa should be required to make restitution by refunding to the DOE $7,069,173 plus interest, the amount of excess benefits which the firm allegedly received from the Entitlements Program. Tonkawa maintained that it accurately reported its crude oil receipts, and challenged the accuracy of the ERA's calculations. The DOE concluded that Tonkawa failed to rebut the ERA's prima facie showing that the firm did not submit accurate Refiners Monthly Reports. As a result, the DOE determined that Tonkawa should be required to disgorge the excess benefits that it received. Accordingly, the Proposed Remedial Order, with certain amendments and modifications, was issued as a final Remedial Order of the DOE.

Request for Modification and/or Rescission

MONTANA, 11/2/87, KER-0033

The DOE issued a Decision and Order concerning the Motion for Reconsideration filed by the State of Montana. The State sought reconsideration of a DOE determination that denied the Petition for Special Redress filed by Montana concerning the use of Stripper Well funds for two proposed programs. The first program would use $139,042 for a biological weed control program. After examining the additional information provided by Montana, the DOE determined that the program was likely to result in energy conservation benefits in the near future. The second program would use $65,000 for roof repairs at West Yellowstone Airport. Montana showed that a significant amount of additional motor gasoline would be consumed by travelers if the West Yellowstone Airport were closed due to deterioration of the terminal's roof. Accordingly, Montana's Motion for Reconsideration was granted.

Request for Exception

Senco Marketing, 11/6/87, KEE-0111

Senco Marketing (Senco) filed an Application for Exception from the requirement that it file Form EIA-782B, entitled "Resellers/Retailers' Monthly Petroleum Product Sales Report." In considering the Request, the DOE found that Senco's reporting burden was not significantly different from that of other firms participating in the EIA-782B survey. Accordingly, exception relief was denied.

Refund Applications

Brookville Leasing Ltd., 11/3/87, RR270-14

The Department of Energy (DOE) issued a Decision and Order granting a Motion for Reconsideration filed by Brookville Leasing Ltd. (Brookville). In a prior determination, the DOE dismissed Brookville's Surface Transporter Refund Application because Brookville had not

met the minimum gallonage amount required for Surface Transporter applicants. In granting Brookville's Motion, the DOE determined that Brookville had been unfairly penalized for an oversight made by its representative. Because Brookville later submitted information showing purchases over the minimum requirement, the DOE determined that Brookville should receive a Surface Transporters refund.

Burlington Industries, Inc., 11/2/87, RF272-2977

The Office of Hearings and Appeals (OHA) issued a Decision Order denying Burlington Industries' Application for Refund from OHA's Subpart V crude oil proceedings. OHA's denial was based on the fact that Burlington had waived its rights to participate in Subpart V by filing an Application for Refund from the M.D.L. 378 Escrow account established for Surface Transporters.

Cargill, Incorporated, RF270-2490, Excel Corporation, RF270-2491, and Cargo Carriers, 11/4/87, RF270-2490, RF270-2491, and RF271-232

The Department of Energy (DOE) issued a Decision and Order reinstating the applications submitted by Cargill, Incorporated (Cargill) and Excel Corporation (Excel) for a refund from the Surface Transporters (ST) Escrow, and the application of Cargo Carriers for a refund from the Rail and Water Transporters (RWT) Escrow. Both of these escrows were established as a result of the Stripper Well Settlement Agreement. The DOE had dismissed these applications on the request of the applicants. The applicants had stated that they wished to apply in crude oil refund proceedings under the provisions of 10 CFR Part 205, Subpart V (Subpart V). Subsequent to the DOE's dismissal of the three claims, the DOE determined that the waiver language in the RWT and ST applications becomes effective and irrevocable upon the filing of those applications with the DOE. Because this ruling precluded Cargill, Excel and Cargo Carriers from applying for a crude oil refund under Subpart V, the DOE sua sponte reinstated their respective escrow claims. Based on the documentation submited by the applicants, the DOE approved the respective ST claims of Cargill and Excel in full, and approved Cargo Carrier's RWT claim after adjusting the gallonage to include only its purchases during the Settlement Period. The DOE will determine the amount of each applicant's refund after it completes its analysis of all RWT and ST claims. The total number of gallons approved in this Decision for a refund from the RWT Escrow is 80,257,160, and the total number of gallons approved for refund from the ST Escrow is 42,071,923.

CF Industries, Inc., et al., 11/2/87, RF272-472, et al.

The Department of Energy (DOE) issued a Decision and Order dismissing the applications of five companies for crude oil refund pursuant to the provisions of 10 CFR Part 205, Subpart V (Subpart V). The DOE dismissed these cases because each of the applicants had already been approved for a refund from one of the Transporters Escrows, Surface or Rail and Water, created by the Stripper Well Settlement Agreement. Under the terms of the Settlement Agreement, in order to receive a refund from one of the Stripper Well escrow accounts, the applicant had to waive its right to a refund in any Subpart V crude oil proceeding. Accordingly, these firms were ineligible for Subpart V crude oil refunds.

Charles F. Cates & Sons, Inc., 11/3/87, RR270-21

The Department of Energy (DOE) issued a Decision and Order granting a Motion for Reconsideration filed by Charles F. Cates & Sons (Charles). In a prior determination, the DOE dismissed Charles' Surface Transporter refund application because Charles failed to submit requested information in a timely manner. In granting Charles' Motion, the DOE decided that Charles was unable to comply promptly with a DOE information request for persuasive reasons. After evaluating the information submitted by the firm, the DOE concluded that Charles is eligible to receive a refund from the Surface Transporters Escrow.

Cranston Oil, Service Company, Inc., John Pelli et al., 11/3/87, RF276-9 et al.

The DOE issued a Decision granting 50 Applications for Refund from the consent order fund obtained by the DOE from Cranston Oil Service, Inc., and its successor-in-interest Galego Oil Company. The 50 refund applicants were end-users of Cranston No. 2 heating oil during the consent order period. Each applicant elected to apply for a refund based upon the presumptions set forth in *Cranston Oil Service Co.*, 14 DOE ¶ 85,499 (1986). The total amount of refunds approved in this determination is $3,588 representing $3,159 in principal and $429 in interest.

Cranston Oil, Service Company, Inc., Richard T. Almay et al., 11/2/87, RF276-18 et al.

The DOE issued a Decision granting 50 Applications for Refund from the consent order fund made available to the DOE by Cranston Oil Service, Inc., and its successor-in-interest Galego Oil Company. The 46 refund applicants were end-users of Cranston No. 2 heating oil during the consent order period. Each applicant elected to apply for a refund based upon the presumptions set forth in *Cranston Oil Service Co.*, 14 DOE ¶ 85,499 (1986). The total amount of refunds approved in this determination is $2,528 ($2,222 in principal and $306 in interest).

Dow Chemical Company, 11/4/87, RR271-7

The Office of Hearings and Appeals (OHA) issued a Decision and Order granting a Motion for Reconsideration filed by Dow Chemical Company on October 21, 1987. In its motion, Dow asked that OHA reverse its previous denial of Dow's Application for Refund from the Rail and Water Transporters (RWT) Escrow established by the Stripper Well Settlement Agreement. OHA had originally denied Dow's application, because an affiliate of the firm had filed for a refund from the Refiners Escrow. OHA granted Dow's motion based on the holding set forth in *Union Pacific Railway Co.*, 16 DOE ¶ 85,526 (1987), that separtately incorporated affiliates could file for refunds from different M.D.L 378 Escrows. The DOE also considered the merits of Dow's claim and approved an RWT refund based on Dow's purchases of 99,640,222 gallons of U.S. petroleum products.

Escanaba Area Public Schools, 11/4/87, RF272-97

The DOE issued a Decision and Order considering the application filed by Escanada Area Public Schools seeking a refund for crude oil overcharges. Escanaba demonstrated that during the period of crude oil price controls, it purchased 752,537 gallons of petroleum products which were consumed in vehicles used to transport students. The DOE found that since Escanaba was an end user of refined petroleum products, it was presumed to have been injured by the alleged crude oil overcharges. Accordingly, the application was approved and Escanaba was granted a refund of $151.

Food Haulers, Inc., 11/4/87, RF270-1028

The Department of Energy (DOE) issued a Decision and Order approving an Application for Refund from the Surface Transporters Escrow established as a result of the Stripper Well Settlement Agreement. The applicant demonstrated that it was contractually responsible for the cost of fuel used in the vehicles it leased from

owner-operators. Accordingly, the DOE approved the applicant's entire gallonage claim. The total number of gallons approved in this Decision is 25,460,656.

Getty Oil Company/Blass LP Gas, Inc., et al., 11/4/87, RF265-2505 et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In two of these cases, the applicants were eligible for a claim below the $5,000 small claims threshold. In the remaining two cases, the applicants elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $31,159, representing $15,513 in principal and $15,646 in accrued interest.

Getty Oil Company/Hank's Skelly, et al., 11/4/87, RF265-2235, et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In all of these cases, the applicants were eligible for a claim below the $5,000 small claims threshold. The sum of the refunds approved in this Decision is $8,206, representing $4,086 in principal and $4,120 in accrued interest.

Getty Oil Company/U-Pump-It of Kansas, Inc., et al., 11/2/87, RF265-390 et al.

The DOE issued a Decision and Order concerning six Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In four of these cases, the applicants were eligible for a claim below the $5,000 small claims threshold. In the remaining two cases, the applicants elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $31,634, representing $15,749 in principal and $15,885 in accrued interest.

Getty Oil Company/Verberg Skelly Service, et al., 11/6/87, RF265-445, et al.

The DOE issued a Decision and Order concerning 48 Applications for Refund filed by resellers and retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In 38 of these cases, the applicants were eligible for a claim below the $5,000 small claims threshold. In the remaining 10 cases, the applicants elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $216,112, representing $107,595 in principal and $108,517 in accrued interest.

Hilt Truck Line, Inc., 11/2/87, RF270-1464

The DOE issued a Decision and Order denying an Application for Refund from the Surface Transporters Escrow established as a result of the Stripper Well Settlement Agreement. The DOE determined that he claim of Hilt Truck Line, Inc. was based entirely on gallons of fuel purchased by owner-operators, not the firm itself. These gallons are ineligible for a refund because they were not purchased by the applicant. Therefore, the applicant did not meet the minimum requirements for a Surface Transporter Refund and its Application was denied.

International Multifoods Corporation, 11/4/87, RF270-2344

The Department of Energy (DOE) issued a Decision and Order partially approving an Application for Refund from the Surface Transporters Escrow established as a result of the Stripper Well Settlement Agreement. One of the Applicant's divisions rented vehicles from two independent leasing companies during the Settlement Period. The DOE determined that this division absorbed fuel costs under one of the lease agreements but not under the other. Therefore, the DOE partially approved the claim. The total number of gallons approved in this Decision is 9,330,295.

Madison Bottling Company, 11/2/87, RF270-2495

The Department of Energy (DOE) issued a Decision and Order rescinding a prior Decision that approved a refund for Madison Bottling Company (Madison) in the Surface Transporters Escrow Refund Proceeding. The DOE determined that because Madison had purchased less than 250,000 gallons of petroleum products during the Stripper Well Litigation Settlement Period, it was not a member of the class for which the Surface Transporters Escrow was established. Accordingly, the DOE concluded that Madison is not eligible to receive a Surface Transporters Refund.

Manufacturers Cartage Company, 11/4/87, RF270-2486

The Department of Energy (DOE) issued a Decision and Order reinstating the application submitted by Manufacturers Cartage Company (MCC) for a refund from the Surface Transporters (ST) Escrow established as a result of the Stripper Well Settlement Agreement. The DOE had originally denied MCC's application because an affiliate of the firm had filed for a refund from the Rail and Water Transporters Escrow. The DOE reinstated MCC's claim based on the principles set forth in the case of *Union Pacific Railway Co.*, 16 DOE ¶ 85,526 (1987). In that case, the DOE determined that separately incorporated affiliates could file for refunds from different M.D.L. 378 Escrows. The DOE also considered the merits of MCC's claim. The DOE determined that the documentation submitted by MCC to support its claim was satisfactory and, accordingly, approved the claim in full. The DOE will determine a per gallon refund amount and establish the amount of the applicant's refund after it completes its analysis of all ST claims. The total number of gallons approved in this Decision is 783,619.

Marathon Petroleum Company/Gulf Oil Corporation, 11/4/87, RF250-2574, RF250-2575

The DOE issued a Decision and Order granting the Application for Refund filed on behalf of Gulf Oil Corporation in the Marathon Petroleum Company special refund proceeding. The applicant elected to limit its claim to the small claims threshold of $5,000. The total refund approved in this Decision is $5,000 in principal and $631 in interest.

Marathon Petroleum Company/Orth Oil, Inc., 11/4/87, RF250-1854, RF250-1855

The DOE issued a Decision and Order concerning Applications for Refund filed by Orth Oil, Inc. in the Marathon Petroleum Company special refund proceeding. Orth, a purchaser of Marathon gasoline and middle distillates, elected to limit its refund claim to the $5,000 small claims level, and was therefore not required to submit a detailed showing of injury. The sum of the refunds approved in this Decision and Order is $5,631, representing $5,000 in principal and $631 in interest.

Martin Oil, Service/Ashland Oil, Inc., et al., 11/2/87, RF240-21 et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed in the Martin Oil Service, Inc. special refund proceeding. All five of the Applicants were identified as spot purchasers in *Martin Oil Service, Inc.*, 14 DOE ¶ 85,059 (1986). None of the applicants rebutted the presumption set forth in that Decision that spot purchasers of Martin's refined petroleum

products were not injured by Martin's overchanges. Consequently, all five applications were denied.

Mobil Oil Corp./American Airlines, et al., 11/4/87, RF225-4288 et al.

The DOE issued a Decision and Order granting applications of seven end-users and one reseller requesting refunds from the Mobil Oil Corporation consent order fund. Each applicant presented evidence that it purchased refined petroleum products from Mobil during the consent order period. The end-user applicants purchased products both directly and indirectly supplied by Mobil. According to the methodology set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985) (*Mobil*), each applicant was found to be eligible for a refund from the Mobil consent order fund based on the volume of its purchases times the applicable presumption of injury level times the volumetric refund amount. The refunds approved in this Decision totaled $163,265 ($132,324 principal plus $30,941 interest).

Morgan Cab Company, 11/2/87, RF270-515

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonage of refined petroleum products claimed by Morgan Cab Company. The DOE will use that gallonage as a basis for the refund that will ultimately be issued to the firm. The Decision stated that because the size of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amount of the firm's refund will be determined at a later date.

Phillips Petroleum Company, 11/4/87, RF271-1

The Office of Hearings and Appeals (OHA) issued a Decision and Order denying a Motion for Reconsideration filed by Phillips Petroleum Company on June 19, 1987. In its motion, Phillips asked that OHA reverse its previous denial of Phillip's Application for Refund from the Rail and Water Transporters (RWT) Escrow. OHA had originally denied the application because Phillips had filed for a refund from the Refiners Escrow. In the case of *Union Pacific Railway Co.*, 16 DOE ¶ 85,526 (1987), OHA determined that the RWT Release permitted separately incorporated affiliates to file for refunds from different M.D.L. 378 Escrows, but precluded a single firm or the unincorporated divisions of a firm doing so. Phillips had filed an Application for Refund from the Refiners Escrow. Thus, it was precluded from participating in the RWT Escrow by the terms of the RWT Release.

Puget Sound Freight Lines, 11/4/87, RF271-236

The Department of Energy (DOE) issued a Decision and Order reinstating the application submitted by Puget Sound Freight Lines (Puget Freight) for a refund from the Rail and Water Transporters (RWT) Escrow established as a result of the Stripper Well Settlement Agreement. The DOE had originally denied Puget Freight's application because an affiliate of the firm had filed for a refund from the Surface Transporters Escrow. The DOE reinstated Puget Freight's claim based on the principles set forth in *Union Pacific Railway Co.*, 16 DOE ¶ 85,526 (1987). In that case, the DOE determined that separately incorporated affiliates could file for refunds from different M.D.L. 378 Escrows. The DOE also considered the merits of Puget Freight's RWT claim. The DOE determined that the documentation Puget Freight provided to support its claim was satisfactory and, accordingly, approved the claim in full. The DOE will determine a per gallon refund amount and establish the amount of Puget Freight's refund after it completes its analysis of all Rail and Water claims. The total number of gallons approved in this Decision is 7,039,020.

Sause Brothers Ocean Towing Company, 11/5/87, RF271-9

The Office of Hearings and Appeals (OHA) granted a Motion for Reconsideration filed by Sause Brothers Ocean Towing Company (Ocean Towing) on October 27, 1987. OHA had originally denied the Application for Refund from the Rail and Water Transporters (RWT) Escrow submitted by the firm because the firm had failed to respond to certain factual inquiries regarding its application. In its motion, the firm stated that it had not been able to respond because of the illness of the employee who had prepared the application. OHA determined that the firm's explanation was reasonable, and that the information finally submitted by the firm adequately supported its application. Accordingly, the firm's RWT refund claim was approved.

Tennessee River Pulp and Paper Company, 11/3/87, RF272-4758

The Office of Hearings and Appeals (OHA) issued a Decision and Order denying Tennessee River Pulp and Paper Company's Application for Refund from OHA's Subpart V crude oil proceedings. OHA based its denial on the fact that one of Tennessee's affiliates, the Corinth and Counce Railroad, waived its and Tennessee's rights to participate in Subpart V crude oil proceedings by filing an Application for Refund from the M.D.L. 378 Escrow account established for Rail and Water Transporters.

Tri Boro Taxi Cab Company, 11/6/87, RF270-2496

The Department of Energy (DOE) issued a Decision and Order modifying a prior Decision that approved a refund for Tri Boro Taxi Cab Company (Tri Boro) in the Surface Transporters Escrow Refund Proceeding. The DOE determined that because of an inadvertent error, Tri Boro was granted a larger refund than it was eligible to receive based on the number of gallons of petroleum products it purchased during the Stripper Well Litigation Settlement Period.

Dismissals

The following submissions were dismissed:

Name and Case No.

Butler Gulf Service—RF300-325
Campbell's Gulf—RF300-36
Clemons Gulf—RF300-56
Curtis Beard Service—RF300-42
Duane Schreurs—RF272-8097
Faucette's Gulf Service—RF300-30
J.O. Heflin—RF272—0625
Kittrell's Conoco—RF220-408
Pacific Motor Trucking Company—RR270-22
Philadelphia Electric Co.—RF225-1464
Walts Gulf Service—RF300-377
Yorktowne Paper Mills, Inc.—RF272-413.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 22, 1987.

[FR Doc. 87-29746 Filed 12-28-87; 8:45 am]
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Issuance of Decisions and Orders During the Week of November 9 Through November 13, 1987

During the week of November 9 through November 13, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief

filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Alan Penan, 11/10/87, KFA-0130

Alan Penan filed an Appeal from a denial by the Chief of the Freedom of Information and Privacy Acts Activities Branch of the DOE Office of Administrative Services of a request submitted under the Freedom of Information Act (FOIA). Mr. Penan sought access to an administrative file which had been provided to the Department of Justice by the Office of Personnel Management (OPM) during the course of a lawsuit which Mr. Penan filed against the Department of Energy (DOE). In response to Mr. Penan's FOIA request, the Authorizing Official informed him that the request had been referred to OPM. In his Appeal, Mr. Penan objected to that referral and asked that the DOE be directed to respond to his request. However, the DOE pointed out that Mr. Penan's request had been transferred to OPM after the Authorizing Official was unable to locate any documents in the DOE's possession that were responsive to the FOIA request. In addition, the OPM had indicated to the Authorizing Official that it possessed responsive documents. Under these circumstances, the DOE found that the Authorizing Official had conducted an adequate and reasonable search for any responsive documents in the DOE's possession. Accordingly, Mr. Penan's Appeal was denied.

Cascade Broadcasting Company, Washington Public Power Supply, 11/10/87, KFA-0129, KFA-0135

Cascade Broadcasting and WPPSS filed Appeals from denials by the Assistant Manager of the Richland Operations Office of Requests for Information which the firms had requested under the Freedom of Information Act. In considering the appeals, the DOE found that the requested document was properly withheld under Exemption 5. An important issue that was considered in the Decision and Order was whether disclosure of a DOE report to Congressmen and a governor, for consultative purposes, constitutes a waiver of confidentiality under Exemption 5.

Petition for Special Redress

Indiana, 11/10/87, KEG-0019

The DOE issued a Decision and Order concerning a Petition for Special Redress submitted by the State of Indiana. The State sought approval to use Stripper Well monies for these projects which the DOE's Assistant Secretary for Conservation and Renewable Energy held to be inconsistent with the terms of the Stripper Well Settlement Agreement. The DOE disapproved the State's proposal to use $1,500,000 for the City of Anderson Substation Relocation Program, $95,867 for the Shale Oil-Modified Asphaltic Paving Materials Program, and $225,000 for the Indiana Geological Survey-Image Analyzing Petroscopic Microscope Program. The DOE found that the Substation Relocation Project should not be funded with oil overcharge monies because it would neither promote significant energy conservation nor accomplish restitution. Similarly, the Shale Oil-Modified Asphaltic Paving Materials Program was disapproved because it appeared to be an economic development project that promised little or no energy-related benefits to injured citizens of Indiana. Finally, the DOE determined that the Indiana Geologic Society should not be permitted to use oil overcharge funds to purchase a Petroscopic Microscope because Indiana had made no showing that energy conservation or restitution would result from the purchase of this device. Accordingly, Indiana's Petition for Special Redress was denied.

Request for Exception

Wholesale Petroleum Agency, 11/10/87, KEE-0150

The Wholesale Petroleum Agency (Wholesale), a retailer of motor gasoline, diesel fuel and motor oil, filed an Application for Exception requesting that it be relieved of the requirement to file Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In reviewing the request, the DOE found that Wholesale would not experience any inordinate burden by fulfilling its reporting obligation and that any burden to the firm of providing the data produced by the Form did not outweigh the benefits to the Nation of having this information. Accordingly, exception relief was denied.

Interlocutory Order

Highway Oil Company, Inc., Economic Regulatory Administration, 11/9/87, KRZ-0065, KRR-0031, and KRZ-0064

On March 9, 1987, the Highway Oil Company, Inc. (Highway) filed a Motion to Dismiss a Proposed Remedial Order (PRO) issued to Highway by the Economic Regulatory Administration (ERA) on October 29, 1982. In its Motion Highway argued that the PRO should be dismissed with prejudice because the ERA had not filed recalculations of the overcharges alleged in the PRO on a timely basis. In considering the Motion, the DOE found that the ERA had, in essence, complied with all orders issued by the DOE and that the ERA's conduct had not resulted in any undue delay of this proceeding. Accordingly, the Motion to Dismiss was denied.

On March 16, 1987, the ERA filed a Motion for Leave to File Recalculations of the amount of overcharges alleged in the PRO issued to Highway. In considering the Motion, the DOE found that the public interest in reaching a prompt adjudication of this case on the merits, coupled with the absence of any prejudice to Highway in accepting recalculations that reduced the amount of overcharges alleged, constituted good cause for granting the ERA's Motion. Accordingly, the DOE accepted into the record the ERA's recalculations submitted on March 16, 1987.

Finally, Highway requested that if ERA's Motion to File Recalculations were granted, the DOE should reconsider its previous denial of Highway's June 21, 1985 request to supplement the record. In denying the firm's Request for Reconsideration, the DOE found that its determination to accept the ERA's recalculations into the record provided no basis for reconsidering its earlier denial of Highway's request to file supplemental material.

Supplemental Order

International Telephone & Telegraph Company, 11/12/87, DEX-0043

The DOE conducted a review of exception relief that had been granted to International Telephone & Telegraph Company (IT&T) on April 20, 1978. The exception had permitted a subsidiary of IT&T, the Eason Oil Company, to increase its selling prices for natural gas liquids above the maximum levels permitted under DOE regulations for the period March 31, 1978 through September 30, 1978. That exception relief was granted to permit the firm to recover all of its increased nonproduct costs at its Crescent plant.

In reviewing the exception proceeding, the DOE determined that $236,822 of the nonproduct costs claimed in IT&T's 1978 exception application were incurred as a result of the acquisition of Eason by IT&T, and were not directly related to the costs of

operating the Crescent plant. The DOE found that such merger related expenses did not form a proper basis for exception relief.

Accordingly, the DOE determined that the 1978 exception relief should be recalculated to exclude the $236,822 in improper merger-related costs. Authority to modify the 1978 Decision was based upon Paragraph (7) of the Order in that decision which stated that the relief may be revoked or modified at any time upon a determination that the factual basis underlying the application was incorrect. Since the DOE found that IT&T had materially misrepresented the relevant facts when it stated in its application, a Supplemental Order was issued reducing the amount of exception relief for the relevant period from 6.295 to 4.277 cents per gallon.

Refund Applications

Britt Well Service, Inc., 11/10/87, RF272-227

The Department of Energy (DOE) issued a Decision and Order dismissing the application of Britt Well Service, Inc. (Britt) for a refund pursuant to the provisions of 10 CFR Part 205, Subpart V (Subpart V). The DOE dismissed Britt's claim because one of Britt's affiliates, Britt Trucking Company, Inc. (Britt Trucking) had already been approved for a refund from the Surface Transporters Escrow established by the Stripper Well Settlement Agreement. Under the terms of the Settlement Agreement, in order to receive a refund from one of the Stripper Well escrow accounts, the applicant had to waive its right to a refund in a Subpart V proceeding. The Settlement Agreement states that this waiver is also binding on the applicant's affiliates. Accordingly, Britt is bound to the terms of the waiver signed by Britt Trucking, and the DOE dismissed Britt's Subpart V claim.

Cranston Oil Service Company, Inc., Frank M. Capace, et al., 11/12/87, RF276-6, et al.

The DOE issued a Decision granting 50 Applications for Refund in the Cranston Oil Service, Inc., special refund proceeding. The 50 refund applicants were end-users of Cranston No. 2 heating oil during the Cranston consent order period. Each applicant elected to apply for a refund based upon the presumptions set forth in *Cranston Oil Service Co.*, 14 DOE ¶ 85,499 (1986). The total amount of refunds approved in this determination is $4,339, representing $3,810 in principal and $529 in interest.

Getty Oil Company/Community Gas Company, et al., 11/10/87, RF265-2392, et al

The DOE issued a Decision and Order concerning six Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In all of these cases, the applicants were eligible for a claim below the $5,000 threshold. The sum of the refunds approved in this Decision is $23,056, representing $11,479 in principal and $11,577 in accrued interest.

Getty Oil Company/Meyer Petroleum Service, et al., 11/9/87, RF265-495, et al.

The DOE issued a Decision and Order concerning 19 Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In ten of these cases, the applicants were eligible for a claim below the $5,000 threshold. In the remaining nine cases, the applicants elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $63,198, representing $31,466 in principal and $32,732 in accrued interest.

Getty Oil Company/Savage Skelly, et al., 11/10/87, RF265-1224, et al.

The DOE issued a Decision and Order concerning 49 Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In 49 of these cases, the applicants were eligible for a claim below the $5,000 threshold. In the remaining ten cases, the applicants elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $241,928, representing $120,453 in principal and $121,475 in accrued interest.

Gold Kist, Inc., 11/13/87, RF270-2397

The DOE issued a Decision and Order denying an Application for Refund from the Surface Transporters Escrow filed by Gold Kist, Inc., an agricultural cooperative. The DOE found that Gold Kist's receipt of a refund from the Agricultural Cooperative Escrow precluded the firm from also obtaining a refund from the Surface Transporters Escrow, because its sudrafe transportation activities were carried out by the same incorporated entity.

JOC Oil, Inc./Consolidated Edison Company of New York, 11/13/87, RF109-2

Consolidated Edison Company of New York (Con Ed) filed an Application for Refund in the JOC Oil, Inc. special refund proceeding. The refund claim was based upon (i) 418,171 gallons of residual fuel oil which Con Ed purchased from JOC Oil and (ii) 7,478,245 gallons which Con Ed did not purchase from JOC Oil. The latter aspect of the claim involves damages which the New York State Supreme Court ordered Con Ed to pay JOC Oil in connection with a breach of contract suit. Alleging that the damages which it paid JOC were based in part upon the firm's selling prices, including the alleged overcharges, Con Ed argued that an additional volumetric refund based upon a figure of 7,478,245 gallons should be granted to eliminate the alleged overcharges from the damages paid JOC Oil. Based upon the 418,171 gallons of fuel oil which Con Ed purchased, a refund of $33,685.76 in principal and $41,760.96 in accrued interest was approved. With respect to the second part of the claim, the OHA (i) denied a volumetric refund because Con Ed has not purchased the 7,478,245 gallons and (ii) denied any further refund relating to the breach of contract damages because Con Ed did not show that the JOC Oil price upon which the Court ordered damages were based violated any DOE regulations.

Marathon Petroleum Company/Pilot Oil Corporation, 11/9/87, RF250-2383, RF250-2384

The DOE issued a Decision and Order concerning an Application for Refund filed by the Pilot Oil Corporation (Pilot), a Marathon subsidiary, in connection with the Marathon Petroleum Company special refund proceeding. The DOE determined that subsidiaries such as Pilot are not among the class of Marathon applicants for whom the presumptive levels of overcharge injury were intended to apply. The DOE also found that Pilot's injury demonstration was inconclusive. Consequently, the firm's application as denied.

Martin Oil Service, Inc./Koch Refining Company, Atlantic Richfield Company, 11/9/87, RF240-16, RF240-20

The DOE issued a Decision granting two Applications for Refund in the Martin Oil Service special refund proceeding. Each applicant was a reseller of motor gasoline and sought a refund in excess of the $5,000 small claims threshold. However, the applicants failed to provide documentation of injury as required for refunds exceeding $5,000. Accordingly, a refund of $7,145, representing $5,000 in

principal and $2,145 in interest, was granted to each claimant.

Minnesota, Dakota & Western Railway Company, 11/13/87, RF271-238

The Minnesota, Dakota & Western Railway Company (Minnesota) was granted a refund from the Rail and Water Transporters (RWT) Escrow on the basis of purchases of 395,060 gallons of U.S. petroleum products. Minnesota had withdrawn its first RWT claim but was allowed to reinstate that application after the OHA concluded that a valid escrow waiver release, such as that executed by Minnesota in its first RWT claim, could not be withdrawn.

Mobil Oil Corporation/A.R. Kincannon, et al., 11/10/87, RF225-7163, et al.

The DOE issued a Decision granting 49 Applications for Refund filed in the Mobil Oil Corporation special refund proceeding by retailers, resellers, and end-users of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $44,602, representing $36,152 in principal and $8,450 in interest.

Mobil Oil Corp./Ashland Petroleum Company, 11/10/87, RF225-4942

The DOE issued a Decision and Order granting an Application for refund filed by the Ashland Petroleum Company (Ashland), a refiner, in the Mobil Oil Corporation special refund proceeding. Ashland requested a refund on the basis that it was an end-user of 73,916,808 gallons of normal butane, propane and butane-butylene purchased from Mobil. However, Ashland had used these products as blending components in its refining operations and OHA had previously concluded that an applicant making such uses of refined products purchased from a consent order firm should be considered as a reseller and not a end-user. Ashland documented its Mobil purchase volumes but did not make a demonstration of injury in support of its request for a refund in excess of the $5,000 small claims threshold.

Mobil Oil Corporation/Oil Burner Utility Co., et al., 11/10/87, RF225-1213 et al.

The DOE issued a Decision regarding nine Applications for Refund filed by retailers and resellers in the Mobil Oil Corporation special refund proceeding. None of the applicants adequately documented the volumes of products which they claimed to have purchased from Mobil. Accordingly, the applications were denied.

New York Petroleum, Inc./Ashland Oil Inc., 11/9/87, RF49-1

The Ashland Oil Company, Inc. (Ashland) filed an Application for refund in the New York Petroleum, Inc., special refund proceeding. The refund claim was based upon Ashland's purchases of miscertified and illegally priced crude oil from New York Petroleum during the period September 1, 1973 through January 27, 1981. The DOE concluded that a refund was warranted with respect to 35.9 percent of Ashland's total purchases, i.e., those made by Ashland prior to November 1, 1974, the effective date of the Entitlements Program. However, the DOE denied any refund for purchases after that date on the basis that the price equalization effects of the Entitlements Program would have dispersed any injury to Ashland among all participating refiners. Accordingly, Ashland was granted a refund of $45,952 in principal, equivalent to 35.9 percent of its allocable share of the consent order fund, and $21,314 in accumulated interest.

Sun Transport, Inc., 11/9/87, RF271-236

A Decision and Order was issued granting Sun Transport, Inc. (Sun) a refund from the Rail and Water Transporters (RWT) Escrow on the basis of purchases of 41,932,300 gallons of U.S. petroleum products. Sun's claim, which had initially been dismissed, was reinstated after issuance of *Union Pacific Railway Co.*, 16 DOE ¶ 85,526 (1987), in which the DOE concluded that separately incorporated affiliates were entitled to file for refunds from different M.D.L. 378 Escrows.

Texaco Trading and Transportation, Inc., Texaco Refining and Marketing, Inc., 11/10/87, RF270-273, RF270-1314

The DOE issued a Decision and Order concerning the Applications for Refund from the Surface Transporter Escrow filed by Texaco Trading and Transportation, Inc. (Texaco Trading) and by Texaco Refining and Marketing, Inc. (Texaco Refining). Both applicants are affiliates of a separately incorporated firm which filed an unrelated Application for Refund from one of the other M.D.L. 378 Escrows. In accordance with the decision *Union Pacific Railway Co.*, 16 DOE ¶ 85,526 (1987), the DOE found that the filing of an unrelated M.D.L. 378 application by a separately incorporated affiliate did not adversely affect the firms' Surface Transporters refund applications. As Surface Transporters, Texaco Trading will be eligible to receive a refund based on its purchases of 14,707,066 gallons of petroleum products and Texaco Refining will be eligible to receive a refund based on its purchases of 103,717,789 gallons of petroleum products. A per gallon refund amount and the total amount of each firm's refund will be determined after the DOE completes its analysis of all Surface Transporter claims.

Dismissals

The following submissions were dismissed:

Company Name	Case No.
Coastal Transport, Inc.	RF270-2485
Foster's Gulf Service	RF300-425
Ken's Gulf Station	RF300-643
Smith's Gulf Service Station	RF300-467
Vick's Gulf Service Station	RF300-472

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

December 22, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 87-29747 Filed 12-28-87; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-3307-5]

Solid Waste Disposal; Characterization of Municipal Waste Combustor (MWC) Ashes and Leachates From Municipal Solid Waste (MSW) Landfills, Monofills, and Co-Disposal Sites

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) today is announcing the availability of a report entitled, "Characterization of Municipal Waste Combustor Ashes and Leachates from Municipal Solid Waste Landfills, Monofills, and Co-Disposal Sites". This report summarizes the results of six other reports that compile extensive reviews of available literature and data on municipal waste combustion (MWC) ash and leachates. In addition, the

report provides chemical characterization data on MWC ash and simulated leachates as well as data on chemical parameters of actual leachate collected from municipal waste landfills, ash monofills, and co-disposal sites. The report includes the results of these analyses and a limited number of conclusions. The Agency intends to utilize this document in the development of an ash management strategy.

ADDRESSES: The report is available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; telephone (703) 487-4650. The report is available for reviewing at all EPA libraries and in the EPA RCRA docket room, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays; telephone (202) 475-9327. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost $0.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Hotline at (202) 382-3000 or toll free at (800) 424-9346.

SUPPLEMENTARY INFORMATION:

The report titles, NTIS stock number, and prices are:

—"Characterization of MWC Ashes and Leachates from MSW Landfills, Monofills, and Co-Disposal Sites" (Complete seven-volume set)
NTIS Accession Number: PB88-127 931
Paper Copy = $123.00

—"Characterization of MWC Ashes and Leachates from MSW Landfills, Monofills, and Co-Disposal Sites—Summary" (Volume I of VII)
NTIS Accession Number: PB88-127 949
Paper Copy = $19.95, Microfiche = $6.95

—"Leachate Baseline Report—Determination of Municipal Landfill Leachate Characteristics" (Volume II of VII)
NTIS Accession Number: PB88-127 956 Paper Copy = $12.95, Microfiche = $6.95

—"Addendum to Characterization of Municipal Landfill Leachates—A Literature Review" (Volume III of VII)
NTIS Accession Number: PB88-127 964
Paper Copy = $12.95, Microfiche = $6.95

—Characterization of Municipal Waste Combustion Residues and Their Leachates—A Literature Review" (Volume IV of VII)
NTIS Accession Number: PB 88-127 972
Paper Copy = $19.95, Microfiche = $6.95

—"Characterization of Municipal Waste Combustor Residues" (Volume V of VII)
NTIS Accession Number: PB88-127 980
Paper Copy = $25.95, Microfiche = $6.95

—"Characterization of Leachates from Municipal Waste Disposal Sites and Co-Disposal Sites" (Volume VI of VII)
NTIS Accession Number: PB88-127 998
Paper Copy = $32.95, Microfische = $6.95

—"Addendum to Monofill Report" (Volume VII of VII)
NTIS Accession Number: PB88-128 004
Paper Copy = $12.95, Microfiche = $6.95

I. Background

State and local governments charged with municipal solid waste disposal are experiencing a growing shortage of landfill space in many regions of the country. As landfill capacity decreases, jurisdictions increasingly are turning to option such a municipal waste combustion as a means for reducing waste volume. Currently, there are approximately one hundred such combustion facilities operating in the U.S., many with resource recovery capabilities (typically steam or electricity generation).

Increased use of resource recovery (or incineration) has raised public concerns over health and environmental hazards of incineration and the disposal of the resulting ash. Inhalation of the ash derived from incinerator emissions and fugitive dust from handling/disposal operations as well as potential ground-water contamination from leaching of landfilled ash are potential concerns expressed by the public.

EPA is evaluating a broad range of technical and regulatory issues associated with the disposal of municipal waste combustion ash. The objective of these activities is to provide a framework with which strategic decisions regarding Agency policy toward MWC ash can be made.

II. Notice of Availability

As part of EPA's evaluation of current disposal practices for MWC ash, EPA last year began field investigation of four municipal waste combustors, four ash-only landfills, four recent municipal solid waste landfills, and two landfills accepting both municipal waste combustion ash and municipal solid waste. The results of these analyses are summarized in Volume I of the report being made available today: "Characterization of MWC Ashes and Leachates from MSW Landfills, Monofills, and Co-Disposal Sites." Relevant data are summarized in the eight sections of this report. Section one provides the background while section two summarizes available information regarding the chemical characteristics of bottom, fly, and combined (fly and bottom) ash. This characterization includes data on inorganic constituents (including heavy metals), PCBs, dioxin/dibenzofurans, and other organics. Sections three and four detail the major conventional parameters (e.g., TDS, TSS, pH, sulfate, chloride, nitrate, nitrite, phosphate) and inorganic content of leachate found in municipal landfills, co-disposal landfills, and ash monofills. Section five summarizes findings regarding the presence of organic constituents in land disposal facility leachates and laboratory-extracted leachates. In section six, levels of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans in extracts and in monofill leachates are detailed. Section seven summarizes the report and discusses it's main conclusions. Section eight cites the references utilized for the summary volume.

There are six support volumes to the report:

Volume II. "Leachate Baseline Report—Determination of Municipal Landfill Leachate Characteristics", October 1987; contains the results of a literature survey on the environmental effects of municipal waste disposal sites.

Volume III. "Addendum to Characterization of Municipal Landfill Leachates—A Literature Review," October 1987; contains additional literature review data on the environmental effects of municipal waste disposal sites.

Volume IV. "Characterization of Municipal Waste Combustion Residues and Their Leachates—A Literature Review", October 1987; contains results of a literature review of the environmental effects of municipal waste combustion residues and their leachates.

Volume V. "Characterization of Municipal Waste Combustor Residues", October 1987; details the results of a field and analytical program to investigate municipal waste combustor

residues at four MWC, and four ash monofills; including ash, field leachate, simulated leachates, quench waters, and ground water.

Volume VI. "Characterization of Leachates from Municipal Waste Disposal Sites and Co-disposal Sites," October 1987; contains the results of a field and analytical program to characterize leachates from four municipal waste disposal sites and two co-disposal sites.

Volume VII. "Addendum to Monofill Report", October 1987; details additional field investigation activities conducted at the four ash monofills in which analyses for selected conventional parameters from leachate samples were completed.

Date: December 21, 1987.

J.W. McGraw,

Acting Assistant Administrator for Solid Waste And Emergency Responses.

[FR Doc. 87-29734 Filed 12-28-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3307-7]

Science Advisory Board, Executive Committee, Open Meeting—January 14 and 15, 1988

Under Pub. L. 92-463, notice is hereby given that the Executive Committee of the Science Advisory Board (SAB) will meet from 9:15 a.m. to 4:00 p.m. on January 14 and from 9:15 to 12:00 noon on January 15 at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC in the Administrator's Conference Room 1101.

The main issues to be discussed at the meeting are: EPA requests for SAB reviews of re-assessments for inorganic arsenic and dioxin; reports of the Hazard Ranking System Subcommittee; and briefing on the Administrator's Task Force on Technology Transfer and Training.

The meeting is open to the public. Any member of the public wishing to attend or submit written comments should notify Dr. Terry F. Yosie, Director, Science Advisory Board, at 202-382-4126 or Joanna Foellmer by January 8, 1988.

Dated: December 21, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-29735 Filed 12-28-87; 8:45 am]

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[FRL-3307-4]

Determination To Prohibit, Deny, or Restrict the Specification of an Area for Use as a Disposal Site; Santa Ysabel Creek, San Diego County, CA

December 17, 1987.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed section 404(c) determination and notice of public hearing.

SUMMARY: Section 404(c) of the Clean Water Act (CWA) (33 U.S.C. 1251 *et seq.*) authorizes the administrator of the EPA to prohibit, deny or restrict the specification or use of any defined area as a disposal site, whenever he determines, after notice and opportunity for public hearing, that the discharge of dredged or fill materials into such an area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreation areas. EPA's procedures for implementing section 404(c) are set forth in 40 CFR Part 231. This notice of proposed 404(c) determination and public hearing is being published by the Regional Administrator of the EPA's Region IX office in San Francisco, California. This notice includes the Regional Administrator's proposed determination covering the discharge of dredged or fill material into waters of the United States, including wetlands, by the San Diego County Water Authority (SDCWA), on lands owned by the City of San Diego, in Santa Ysabel Creek, San Diego County, California. The Regional Administrator is considering whether to recommend that the proposed discharge be prohibited, denied or restricted.

The SDCWA proposes to construct and operate an emergency and dry year supply storage reservoir in Pamo Valley, near Ramona, San Diego County, California. The maximum capacity of the reservoir would be 130,000 acre-feet (AF), making it the largest reservoir in San Diego County. Imported (pumped storage) and local winter runoff would be stored in the reservoir behind a 264-foot concrete dam, that will be constructed across Santa Ysabel Creek at the south end of Pamo Valley (Township 12 South, Range 1 East, Section 27). At maximum storage capacity, the proposed dam would create a reservoir in Pamo Valley that would inundate 1800 acres, including approximately 330 acres of wetlands. In November 1987, the U.S. Army Corps of Engineers, Los Angeles District, gave notice of its intentions to issue a section 404 permit to the SDCWA for construction of the proposed dam across Santa Ysabel Creek.

EPA has reason to believe that the proposed discharge of dredged and/or fill material into Santa Ysabel Creek will result in unacceptable adverse effects on wildlife. In accordance with 40 CFR 231.4, the Regional Administrator finds that it would be in the public interest to hold a hearing on this proposed determination.

Additional Studies: The City of San Diego, the landower of the proposed reservoir and mitigation sites, is conducting an independent analysis of the proposed project, including studies of alternatives, cost, and mitigation. EPA will evaluate the results of the City of San Diego's analysis of the Pamo Dam Project as part of EPA's 404(c) evaluation. This study is tentatively scheduled to be completed by the end of April 1988.

Purpose of Public Notice: This serves as a notice of proposed section 404(c) determination and initiation of public comment period covering the proposed discharge, as described above. EPA would like to receive data or observations concerning (1) whether or not the proposed discharge in Santa Ysabel Creek would cause an unacceptable adverse effect to wildlife, as described in section 404(c) of the CWA, (2) the vegetative and hydrologic characteristics of the project area and observations of, or information concerning, wildlife utilizing the project area; (3) the availability of less environmentally damaging practicable alternatives to the proposed discharge taking into account cost, logistics, and the overall (basic) project purpose; (4) the adequacy of the proposed mitigation in off-setting project related impacts to wildlife and their habitats; (5) endangered species affected by the proposed project; (6) cumulative impacts of the project; (6) what corrective action, if any, could be taken to reduce the adverse impacts of the discharge and; (7) whether the Regional Administrator should recommend to the Assistant Administrator for Water that he prohibit, deny or restrict the discharge of dredged or fill material, on the site.

Public Hearing: The EPA will conduct a public hearing to obtain comments on EPA's proposal to prohibit, deny or restrict the discharge of dredged and fill material from construction of Pamo Dan. In order to fully consider the findings of the City of San Diego's independent analysis of this project as discussed above under *Additional Studies*, the public hearing will be held within 30

days of EPA's receipt of this analysis. A separate public notice will be published in the **Federal Register** and local newspapers to announce the date and location of this hearing and hearing procedures.

Written comments may be submitted prior to (beginning with the date of publication of the notice in the **Federal Register**) or following the hearing, or presented at the hearing. The hearing record will remain open 30 days after the hearing. The Regional Administrator hereby determines that good cause exists to establish a comment deadline of June 30, 1988 to permit EPA and the public to consider the City of San Diego's analysis of the proposed project. However, the comment deadline may be extended if the Regional Administrator determines there is good cause for an extension. Comments submitted prior to or after the hearing or requests for copies of the proposed determination should be submitted to the EPA Region IX's designated Record Clerk, Mr. Robert Leidy, Wetlands, Oceans and Estuaries Branch (W-7), EPA, 215 Fremont Street, San Francisco, California 94105. Comments should directly address the issues enumerated above under Purpose of Public Notice. All comments will be fully considered in reaching a decision to either withdraw the proposed determination or prepare a recommended determination to either prohibit, deny or restrict the specification or use of all or portions of Pamo Valley as a disposal site for construction of Pamo Dam. The Regional Administrator will either withdraw the proposed determination or forward a final Regional recommendation and the administrative record to the EPA Assistant Administrator for Water in Washington, DC, for review and the final determination. The procedures to be used in making the final determination are specified at 40 CFR 231.6.

Copies of all comments submitted in response to this notice will be available for public inspection during normal working hours (8:00 a.m. to 5:00 p.m.) at the EPA Region IX office.

Supplementary Information and Background

A. *Description of the Section 404(c) Process:* The CWA prohibits the discharge of pollutants, including dredged and fill material, into the waters of the United States (including wetlands) except in compliance with, among other things, section 404, 33 U.S.C. 1344. Section 404 authorizes the Secretary of Army, acting through the Chief of Engineers, to authorize the discharge of dredged or fill material at specified sites through the application of environmental guidelines developed by EPA in conjunction with the Secretary or where warranted by the economics of anchorage and navigation, except as provided in section 404(c). Section 404(c) authorizes the Administrator of EPA, after notice and opportunity for hearing, to prohibit or restrict the use of a defined site for disposal of dredged or fill material where he determines that such use would have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.

Regulations published in 40 CFR Part 231 establish the procedures to be followed by EPA in exercising its section 404(c) authority. Whenever the Regional Administrator has reason to believe that use of a site may have an unacceptable adverse effect on the pertinent resources, she may begin the process by notifying the Corps of Engineers and the applicant that she intends to issue a proposed determination under section 404(c). Unless the applicant or the Corps persuades the Regional Administrator within 15 days that no unacceptable adverse effects will occur, the Regional Administrator publishes a notice in the **Federal Register** of her proposed determination, soliciting public comment and offering an opportunity for a public hearing. Today's notice represents this step in the process.

Following the public hearing and the close of the comment period, the Regional Administrator decides whether to withdraw her proposed determination or prepare a recommended determination. A decision to withdraw may be reviewed at the discretion of the Assistant Administrator for Water at EPA Headquarters. If the Regional Administrator prepares a recommended determination, she then forwards it and the complete administrative record compiled in the Region to the Assistant Administrator for Water at EPA's headquarters for a final decision affirming, modifying, or rescinding the recommended determination. The Corps of Engineers and the applicant are provided with another opportunity for consultation before this final decision is made.

B. *Nature of Proposed Discharge:* The SDCWA proposes to discharge dredged or fill material into Santa Ysable Creek for the construction of a 264-foot roller-compacted concrete dam. This discharge of dredged or fill material will result in the inundation of 1800 acres of Pamo Valley when the newly created reservoir is at capacity. EPA is particularly concerned with the direct loss of approximately 330 acres of wetlands from reservoir inundation and potential secondary impacts to an additional 124 acres of wetlands due to reservoir operation.

C. *Characteristics of the Site:* Pamo Valley encompasses approximately 4300 acres, 1800 acres of which would be inundated by the proposed reservoir. There are eight native and naturalized vegetation types in Pamo Valley. The valley supports a minimum of 302 plant species. Wetlands in Pamo Valley total approximately 330 acres. Riparian woodland comprises 174 acres and is most extensive along Santa Ysabel Creek at the southern end of Pamo Valley, and along the creek above the valley and below the proposed dam. In general, the overstory is dominated by western sycamore (*Platanus racemosa*) and arroyo willow (*Salix lasiolepis*), while the second-story canopy includes cottonwood (*Populus fremontii*), black willow (*S. goodingii*) and white alder (*Alnus rhombifolia*). The shrub layer includes canopy tree saplings, mulefat (*Baccharis glutinosa*) and blackberry (*Rubus urinus*). The narrow, ungrazed canyons of Santa Ysabel Creek surrounding Pamo Valley are dominated by mature trees with a dense multi-aged understory. Many small shrubs and herbaceous species are found in the understory, most notaly mugwort (*Artemesia douglasiana*), and spike rush (*Eleocharis* spp.). Riparian woodland distrubed by cattle grazing in upper Pamo Valley along Temescal and Bear Creeks is characterized by widely-spaced cottonwood trees with an open understory dominated primarily by introduced grasses. The incised stream channel of upper Temescal Creek is dominated by dense willow and mulefat thickets under widely scattered cottonwoods.

Emergent wetlands border the main stream channel in upper Pamo Valley and have been disturbed by cattle grazing. This grazing has limited the establishment of riparian shurbs and trees. These areas are seasonally flooded and are dominated by salt grass (*Distichlis spicata*), Bermuda grass (*Cynodon dactylon*), California wild rose (*Rosa californica*), tree tobacco (*Nicotiana glauca*), mulefat, spike rush, brass buttons (*Cotula coronopifolia*) and rush (*Juncus* spp.). Riparian vegetation along Santa Ysabel Creek from Sutherland Reservoir to Pamo Valley forms a narrow, continuous band dominated by sycamores, willows and cottonwoods. Southern oak woodland occurs as a narrow band bordering the riparian woodland with the adjacent

hillsides dominated by chaparral scrub habitat. Pamo Valley provides unusually high quality wildlife habitat. The documentation to date, which is based upon limited filed observations, indicates that Pamo Valley is utilized by approximately 100 species of resident and migratory birds, including the federally-endangered least Bell's vireo (*Vireo bellii pusillus*), 16 species of raptors, 15 species of mammals, four species of amphibians and 13 species of reptiles. The U.S. Fish and Wildlife Service (USFWS) believes that the species diversity is likely higher. The available information further indicates that one bird species and two species of reptiles are candidates for listing on the Federal endangered species list and that 23 bird species and two species of mammals are considered to be species of special concern by federal and state wildlife agencies and public wildlife groups, due to their restricted distribution, recent population declines, and/or unusual scientific or educational value.

D. *Proceedings to Date:* On October 4, 1985, the Corps of Engineers, Los Angeles District, gave public notice (no. 85-021-AA) that the SDCWA had applied for a Section 404 permit to discharge dredge or fill material into Santa Ysabel Creek for the constructon of Pamo Dam and associated facilities. EPA reviewed the proposed project for compliance with EPA's 404(b)(1) Guidelines and concluded from this review that the project failed to comply with these Guidelines in several substantive areas. Furthermore, because of the potentially significant impacts of the project on the environment and because a permit issued for the project would represent a major federal action, EPA concluded that an Environmental Impact Statement (EIS) was required under the National Environmental Policy Act (NEPA; 40 CFR Parts 1500-1508).

In March 1986, the Corps of Engineers determined that an EIS would be required for the proposed project. The draft EIS (DEIS) was completed in October 1986. In a letter dated December 18, 1986, EPA rated the DEIS as Category EO-2, Environmental Objections—Insufficient Information and recommended that a revised DEIS be prepared. The EPA also found that the project failed to comply with the 404(b)(1) Guidelines at 40 CFR 230.10(a), (c) and (d). In January 1987, representatives of the SDCWA and the City of San Diego (the owner of Pamo Valley and the proposed mitigation lands in San Pasqual Valley) met with EPA to discuss the adequacy of the DEIS in addressing unresolved NEPA and section 404 issues. At this meeting, EPA identified several specific less-damaging alternatives that appeared to be practicable and expressed concern about the adequacy of the proposed mitigation plan. In February 1987, the final EIS (FEIS) was completed. The FEIS was not responsive to many of the unresolved issues identified at the January 1987 meeting. As a result, the EPA and the USFWS continued to have concerns regarding the adequacy of the practicable alternatives analysis and biological mitigation plan. EPA continued to recommend that a section 404 permit not be issued for the proposed project. In February and, again, in March 1987, EPA met individually with the SDCWA and with other state and federal agencies to discuss EPA's unresolved section 404 concerns.

In a draft Record of Decision (ROD) dated April 20, 1987, the Los Angeles Corps' District Engineer informally notified EPA of the Corps' intention to issue a 404 permit over EPA's objection for the Pamo Dam and Reservoir Project, as proposed. Subsequently, EPA met with the Los Angeles District Engineer to discuss EPA's unresolved concerns regarding the project's noncompliance with the 404(b)(1) Guidelines. At this meeting the District Engineer notified EPA of his plans to proceed with a notice of intent to issue a permit for Pamo Dam pursuant to EPA's Memorandum of Agreement (MOA) with the Department of the Army under section 404(q) of the CWA [see 404(q) MOA, November 1985]. Section 404(q) directs the Corps of Engineers and EPA to enter into an agreement to coordinate and expediate permit decision making. On May 11, 1987, EPA submitted a document titled "Pamo Dam and Reservoir Project: A section 404 Analysis", to the District Engineer to finalize and communicate EPA's additional views on the proposed section 404 permit for Pamo Dam.

On May 8, 1987, the USFWS, as a result of endangered species concerns, formally requested that the District Engineer reinitiate section 7 consultation, under the Endangered Species Act of 1973, as amended, for the endangered least Bell's vireo. On June 8, 1987, the EPA Regional Administrator, Region IX, met with the Corps' South Pacific Division Engineer in an attempt to address EPA's unresolved concerns with the project. As a result of that meeting, EPA provided the Corps with additional information on EPA's position regarding issuance of a permit for Pamo Dam. On July 10, 1987, EPA received formal notification from the Los Angeles District Engineer, in the form of a final ROD, of his intention to issue a section 404 permit for Pamo Dam over EPA's objection. In August 1987, EPA requested that the Assistant Secretary of the Army for Civil Works (ASACW) review the proposed permit decision under EPA's MOA with the Department of the Army. Subsequently, the ASACW remanded the Pamo permit decision to the Los Angeles District, directing them to re-evaluate project costs, including mitigation.

In November 1987, the ASACW informed EPA of the Corps' intention to issue the permit for Pamo Dam and provided EPA with a revised ROD. Under EPA's MOA with the Army, on November 25, 1987 EPA notified the Corps of its intent to initiate proceedings under section 404(c) of the CWA.

E. *Proposed Determination:* The Regional Administrator is considering a recommendation to prohibit the discharge of dredged or fill material into Santa Ysabel Creek for the construction of the proposed Pamo Dam.

F. *Basis for Proposed Determination:* 1. *Section 404(c) Criteria.* The CWA requires that exercise of the final section 404(c) authority be based on a determination of "'unacceptable adverse effect" on municipal water supplies, shellfish beds, fisheries, wildlife or recreational areas. The regulations define "unacceptable adverse effect" in 40 CFR 231.2(e) as:

> Impact on an aquatic or wetland ecosystem which is likely to result in significant degradation of municipal water supplies or significant loss or damage to fisheries, shellfishing, or wildlife habitat or recreation areas. In evaluating the unacceptability of such impacts, consideration should be given to the relevant portions of the Section 404(b)(1) Guidelines (40 CFR Part 230).

The preamble to 40 CFR Part 231 explains that one of the basic functions of section 404(c) is to oversee the application of the section 404(b)(1) Guidelines. Those portions of the Guidelines relating to the availability of less environmentally-damaging practicable alternatives (40 CFR 230.10(a)), impacts to endangered species (40 CFR 230.10(b)), significant degradation of waters of the United States (40 CFR 230.10(c)), minimizing adverse impacts to aquatic resources (40 CFR 230.10(d)), and to the determination of cumulative effects on the aquatic ecosystem (40 CFR 230.11(g)), are of particular importance in the evaluation of the unacceptability of environmental impacts in this case. The 404(b)(1) Guidelines require that no discharge of dredged or fill material shall be permitted if (1) there is practicable

alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, (2) it would jeopardize the continued existence of species listed as endangered under the the Endangered Species Act of 1973, as amended, (3) it would cause or contribute to significant degradation of the waters of the United States, or (4) the proposed discharge does not include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem. In addition, the Guidelines state that the permitting authority should collect and solicit information concerning cumulative impacts and document and consider this information during the decision-making process. Thus, it is appropriate under section 404(c) to take into account whether the project will result in significant degradation to aquatic resources, particularly wildlife habitat, or whether the proposed mitigation is adequate to offset project-related impacts to the aquatic environment.

The Administrator's section 404(c) authority may be used to prohibit, deny or restrict a permit which the Corps has determined it would issue (as is the case with the Pamo Dam project). Under the section 404(c) authority, the Administrator may totally prohibit all discharges of dredged or fill material to a defined area or may impose some partial prohibition, such as restriction from a particular activity.

2. *Adverse Impacts of Permit Issuance.* Construction of Pamo Dam would alter drastically the hydrology and ecology of the project area. At a maximum storage capacity of 130,000 acre-feet (AF), Pamo Reservoir would inundate portions of nine vegetation types, totalling 1800 acres. Much of the existing plant communities would be destroyed. Of particular significance is the direct loss of approximately 330 acres of emergent and riparian wetlands. Furthermore, impoundment of the natural runoff from Pamo Valley would reduce runoff in the upper San Pasqual groundwater basin by about 78 percent in an average rainfall year. These flow reductions would reduce the viability of 78 acres of riparian woodland. In addition, operation of Pamo Reservoir would decrease the spill frequency of Sutherland Reservoir resulting in decreases in streamflows available to 46 acres of riparian wetlands in Santa Ysabel Creek above Pamo Reservoir. Without compensating downstream releases, flow reductions of this magnitude may have significant adverse impacts on riparian wetlands in the project area.

As discussed previously under section C, the diverse, high quality habitats found in Pamo Valley are important for many birds, mammals, reptiles and amphibians. Pamo Reservoir would cause the permanent loss of these habitats and the destruction and displacement of many species of resident and migratory wildlife dependent on them. Less mobile species such as small mammals, reptiles and amphibians would be destroyed. Most species displaced to adjacent or new habitats at carrying capacity (equilibrium) would not survive. Those that did survive would do so by displacing resident species, that in turn would not survive. It will be difficult for displaced species that require more than one habitat type or utilize ecotones to find suitable habitat. Habitats similar in quality to that found in Pamo Valley area already scarce and declining in the San Diego Region.

The least Bell's vireo (LBV), a federally-listed endangered species, has recently been found in Pamo Valley within the inundation zone of the proposed reservoir and in San Pasqual Valley below the dam site. Because of this new information on the occurrence of the LBV in the reservoir inundation zone and because of modifications to proposed permit conditions to minimize project impacts to the LBV by the Corps of Engineers, the USFWS requested that the Los Angeles District Engineer reinitiate consultation under Section 7 of the Endangered Species Act. The USFWS maintains that issuance of a permit for Pamo Dam prior to completion of a reinitiated consultation would place the Corps of Engineers in violation of Section 7(a)(2) of the Endangered Species Act for permitting a project that is likely to jeopardize the continued existence of a federally-listed species and for failing to reinitiate consultation, as required by the Act and its implementing regulations (50 CFR, Part 402).

Construction of Pamo Dam would reduce the watershed contributing to San Pasqual valley by 30 percent. Without mitigation, this would result in an average annual decrease (annual supply shortfall) in groundwater supply of 703 AF. Additional decreases in groundwater supply will degrade existing poor water quality in San Pasqual Valley.

The proposed project would result in the incremental loss of several natural habitat types in the Southern California region. Loss of oak and riparian woodland habitats would be significant considering (1) the historical scarcity of these habitats in San Diego County, (2) the continued loss of those habitats from urbanization, and (3) the historical failure of mitigation to offset lost values associated with these habitats. Riparian wetlands in San Diego County account for less than 0.5 percent of the county's total acreage. Recent information developed by the California Department of Fish and Game indicates that San Diego County has lost approximately one-third of its riparian areas since the early 1970's. The direct loss of 300 acres of wetlands, including 172 acres of riparian woodland would further contribute to this trend in the loss of wetlands. Project-related impacts to wetlands would have a significant adverse cumulative impact on the health of the aquatic environment of the San Dieguito River system.

G. *Unresolved EPA Concerns:* To date, EPA has reviewed numerous documents regarding the Pamo Dam project provided by an independent consultant to EPA, the Corps of Engineers, the SDCWA, USFWS, other federal, state, and local agencies, and by private groups and individual citizens. A thorough review of this information has not alleviated the following EPA concerns.

1. *Practicable Alternatives to the Proposed Project.* EPA has identified two practicable alternatives which would potentially achieve the basic project purpose through utilization of, and/or modification to, existing water storage and distribution facilities. The first is the no project alternative (that is, utilizing existing water supplies and storage facilities) The second alternative involves heightening the existing San Vicente Dam to increase reservoir storage capacity combined with the construction of additional water distribution facilities.

2. *Proposed Mitigation Plan.* Concerns remain about the technical aspects of the proposed mitigation plan in San Pasqual Valley. First, EPA has previously stated that the mitigation plan relies heavily on a complex plan of importing and exporting water from several sources to create wetlands hydrology. Second, the plan is proposed for higher terrace floodplain and high salinity soils that may not be suitable for the establishment of willow riparian wetlands. A third and over-riding concern is that the mitigation proposal fails to provide for the habitat requirements of the wildlife species that utilize Pamo Valley. Fourth, because the mitigation plan is of complex design, there is concern that implementation, even if it could be made successful, will take many years and, therefore, the proposed wetlands will be unavailable

to serve the wildlife populations currently inhabiting Pamo Valley. Fifth, EPA continus to have concerns regarding on-going unauthorized sand-mining activities conducted by lessees of land owned by the City of San Diego in San Pasqual Valley and the potential impacts of these activities on the proposed mitigation plan. Finally, the mitigation plan as proposed would require continuous and costly operation and maintenance, monitoring, and on-site management in perpetuity. The Corps of Engineers has estimated that the San Pasqual mitigation proposal would cost $19 million to implement (excluding monitoring and remedial action) yet the SDCWA has alloted only approximately $4 million to finance it.

3. *Endangered Species.* As discussed in Section D the USFWS has requested that the Corps of Engineers reinitiate consultation under section 7 of the Endangered Species At for the least Bell's vireo.

4. *Significant Degradation.* The project would cause or contribute to significant degradation of waters of the United States. The project would result in the direct loss of 330 acres of wetlands, with potential secondary impacts to an additional 124 acres of riparian wetlands. EPA believes this loss of wetlands represents a significant cumulative impact on the regional environment of Southern California.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Leidy, Wetlands, Oceans and Estuaries Branch (W-7), 215 Fremont Street, San Francisco, California 94105, (415) 974-7190.

Judith Ayres,

Regional Administrator.

[FR Doc. 87-29736 Filed 12-28-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Truck Detention Charges at West Coast Ports; Enlargement of Time To Reply to Petition for Rulemaking

December 23, 1987.

The Commission on November 30, 1987, 52 FR 45499, published a notice of filing of petition by the Waterfront Rail Truckers Union seeking the promulgation of a truck detention rule applicable at West Coast ports. The notice requested the submission by interested persons on or before January 8, 1988, of views, arguments, or data in response to the petition.

Upon request of interested persons, and good cause appearing, the time for submission of responses to the above-referenced petition is enlarged to and including February 22, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 87-27920 Filed 12-28-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 22, 1987.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument will be placed into OMB's public docket files. The following one-time survey of major banking organizations on their stock market lending and related activities, has received Board approval.

Under the terms of OMB's delegation of authority to the Board to review and approve collections of information, the Board is to provide the public, to the extent possible, with a reasonable opportunity to comment on a proposed collection prior to final approval. The Board may, however, institute a collection quickly without providing an opportunity for public comment if the ordinary procedures would defeat the purpose of the collection or substantially interfere with the Board's ability to perform its obligations.

The present survey is being collected in direct response to a Congressional inquiry that must be responded to by January 11, 1988, and there is not enough time between the date of the request for information (December 2, 1987) and the date it is due to collect the data, analyze it, and prepare the appropriate response to allow for the usual procedure for public comment. Thus, the usual procedure of providing an opportunity for public comment prior to implementation of an information collection is not being followed.

In addition to the direct questions the Board must ask to respond to the Congressional inquiry, the Board will ask some additional questions to improve its understanding of the relationship between banking organizations and the stock market and the attendant risks. The Board requires this information in order to provide a more informed response to the Congressional inquiry and to carry out its statutory responsibilities more effectively. Thus, the same considerations that require prompt action with respect to the first part of the survey apply with equal force to the supplemental questions.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed survey, the request for clearance (SF 83), supporting statement, instructions, and other documents that are being placed into OMB's public docket files may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Office—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

Approval Under OMB Delegated Authority of the Implementation of the Following Report

Report title: One-time Survey of Major Banking Organizations on Their Stock Market Lending and Related Activities.

Agency form number: FR 3041.

OMB Docket number:

Frequency: 1.

Reporters: Bank holding companies, foreign banks, and commercial banks.

Annual reporting hours: 75.

Small business are not affected.

General description of report: This information collection is voluntary [12 U.S.C. §§ 225a, 248(a)(2), 244(c), and 3105] and is given confidential treatment [5 U.S.C. § 552(b)(4) and (8)].

The survey would obtain information on stock market lending and other stock market-related activities of these organizations.

Board of Governors of the Federal Reserve System, December 22, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-29692 Filed 12-28-87; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0591]

Risks on Large-Dollar Transfer Systems; Automated Clearing House Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement.

SUMMARY: The Board has adopted the following measures to reduce risk in the automated clearance house ("ACH") service:

(1) Uniform Reserve Bank procedures to monitor ACH credit payments originated by depository institutions in a weak financial position;

(2) Earlier deadlines for returns of ACH debit transactions of $2,500 or greater; and

(3) Uniform float accounting procedures for depository institutions originating ACH credit transactions that settle on nonstandard holidays.

EFFECTIVE DATE: July 18, 1988.

FOR FURTHER INFORMATION CONTACT: Julius F. Oreska, Manager (202/452-3878), Margaret R. Weimer, Senior Analyst (202/452-3341), Division of Federal Reserve Bank Operations; Elaine M. Boutilier, Senior Attorney (202/452-2418), Legal.

Division; for the hearing impaired *only*, Telecommunications Service for the Deaf (202/452-3544), Earnestine Hill or Dorothea Thompson.

SUPPLEMENTARY INFORMATION: On December 19, 1986, the Board of Governors requested public comment on several proposals to reduce risk in the ACH mechanism. Specifically, the Board proposed the following changes: (1) Change the posting times for ACH transactions in the *ex post* monitoring system; (2) amend the Reserve Bank operating circulars concerning the finality of ACH transactions; (3) reduce the return times for large-dollar ACH transactions; (4) charge the accounts of institutions originating ACH credit transactions, when such institutions observe midweek or nonstandard holiday closings on the settlement date; and (5) monitor ACH transactions originated by problem depository institutions.

In general, favorable comments were received on the proposal to reduce the return times for large-dollar ACH debit transactions, the proposal regarding treatment of ACH credit transactions orginated by institutions observing midweek or nonstandard holiday closings, and the proposal to monitor ACH transactions. The other two proposals, regarding posting for the *ex post* monitor and finality of ACH transactions, generated considerable comment and are still being reviewed. It is expected that recommendations will be considered by the Board on *ex post* monitoring procedures and finality by mid-1988.

Risks Relating to ACH Transactions

The ACH is a value-dated electonic payment mechanism, in which transactions may be originated one or two days before the settlement date. In 1986, over 700 million payments were originated with a value of about $2.2 trillion. There are two types of ACH payments—credit transactions and debit transactions.

In an ACH credit transaction, the originator of the payment orders funds to be credited to the receiver's account. Unlike Fedwire transfers, which are irrevocable to receivers, the Reserve Banks reserve the right to reverse credits given for ACH transactions until the close of business on settlement day. The risk to the Federal Reserve in processing ACH credit transactions arises from the potential failure of an originating institution before its obligation has been fully funded and the Reserve Bank's potential inability to reverse all payments that were originated by the closed institution. The risk faced by depository institutions receiving ACH credit transactions is due to the institutions' typical practice of making the funds available to their customers on the day of settlement. Thus, if payments must be reversed as a consequence of an originating institution's failure, the receiving institution may suffer a financial loss, or if the receiving institution has made the funds available to its customers, the customers may suffer the loss.

In ACH debit transactions, funds flow to the originator of the payment from the receiver. Like checks, ACH debit transactions are provisional payments and receiving institutions have the right to return them. The Federal Reserve's risk in handling ACH debit transactions arises from return item processing. The Reserve Banks must reverse debit entries when items are returned by receiving institutions. If the originating institution has failed and the Reserve Bank is unable to recover funds from the originating institution or its customer, the Reserve Bank would absorb the loss.

Institutions receiving ACH debit transactions are exposed to very little risk because they have the right to return the items if their customers do not have sufficient funds to cover the payments. The primary risk faced by the receiving institutions is the operational risk associated with missing the return deadline.

The originators of ACH debit payments usually release funds to their customers on the day of settlement. Returns, however, typically are not received by originating institutions until five or six days following the settlement day. This exposes the originating institutions to temporal risk directly related to the return item process.

1. Monitoring ACH Originations

The commentors on the ACH risk proposals agreed with the concept of real-time monitoring of ACH transactions and noted that they would prefer risk control measures that would minimize the disruption to the ACH payments mechanism and would be focused primarily on those problem participants that pose the greatest risk. Accordingly, the Board has adopted monitoring procedures developed specifically for problem ACH originators, that is, those institutions in greatest risk of failing.

Each Reserve Bank will be responsible for identifying the problem ACH originators in its district. Each problem depository institution that originates ACH credit transactions will be required to notify the payment system risk monitoring staff at its account-holding Reserve Bank of the value of the payments that it plans to originate before submitting them for processing. The institution must specify the value of the credit payments it plans to originate both in the aggregate and by settlement date.

The Reserve Bank will maintain a cumulative total of ACH transactions by processing date and by settlement date. After the ACH payments are processed and delivered to receiving institutions, the value of the credit payments reported by the problem institution will be compared to the actual transactions that were processed. Any discrepancies will be reviewed with the institution's management immediately. In Districts where private ACH processors perform the processing, the details of monitoring the problem institutions' credit originations still will be addressed by the Reserve Banks which may require the private processors to provide additional information to facilitate the monitoring.

The risk monitoring staff will assess the Federal Reserve's exposure resulting from the ACH credit payments originated by the problem instititution. When necessary, the Reserve Bank will require advanced funding or other assurance of payment to cover the value of the payments at the time of deposit as a surety against the inherent risk. If the institution fails to provide adequate funding or other assurance, then the Reserve Banks may refuse to process the ACH transactions.

Debit transactions originated by problem institutions pose little risk to the recipients. This is because debit payments are provisional payments and the receivers are protected by legal rights to return the debit transactions

within specified time frames. Consequently, no special monitoring procedures are necessary for debit originations. Nevertheless, there may be special concerns that a problem originator will fail with little likelihood that the institution will be merged with or absorbed by a healthy institution. Accordingly, the Board has determined that the Reserve Bank may defer the availability of some or all of the credit from the debit payments the institution has originated. This would parallel § 210.10(b) of Regulation J, which permits Reserve Banks to defer credit for checks. It should be noted, however, that this provision would not fully address the risk to Reserve Banks in instances where the receiving institution returns a debit adjustment entry as late as 45 days after settlement to a failed originating institution. This issue will be considered by the Board together with the recommendations on finality and *ex post* monitoring.

For institutions that are not classified as problem institutions, the Federal Reserve is still exposed to the risk that an institution might unexpectedly be closed or suspended. Consequently, the Reserve Banks continue to reserve the right to reverse credit payments if the originating depository institution fails.

In order to increase their knowledge about ACH originators' activity and to identify unusual trends in ACH originations, the Reserve Banks will review all ACH originations over a two-week reserve accounting period at least once quarterly. This may be done via exception reports that can be generated when average and peak-day origination volumes and dollar value of individual originating institutions exceed a predetermined range, based upon actual origination patterns for each originator. It is expected that this range will be revised at least semiannually.

2. ACH Return Items

To reduce risk to originators of large-dollar debit transactions, the Board changed the deadline for depositing automated ACH debit return items of $2,500 or more at the Reserve Banks from the current deadline of midnight of the business day following settlement or receipt, whichever is later, to the deposit deadlines for the night processing cycle on the business day following settlement or receipt, whichever is later.[1] Presently, ACH returns take five or six days, on average, to reach the originating institutions. Upon implementation of the earliar deadlines, it is expected that the returns will reach the originating institutions by the morning of the second business day following settlement or receipt of the original transaction, whichever is later.

With regard to debit returns of $2,500 or more submitted to the Reserve Banks in paper form, where Reserve Banks must convert the items to electronic form, the Board proposed a return deadline of between 5:00 p.m. and 8:00 p.m. eastern time. This deadline provides the Reserve Bank time to convert the returns in time for processing at night, with delivery to the originating institutions the following morning.

Most of the commenters believed that setting earlier return item deadlines would reduce risk in the ACH mechanism. Therefore, the Board has adopted an 8:00 p.m. (eastern time) deadline for the paper returns and the regular night deposit deadlines for the automated returns.

For those institutions that cannot meet the paper return item deadline, the Board proposed that a telephone return item service be offered at a fee of $6.00 per return item. Most commenters supported the proposal to offer this service, but questioned the fee, believing it should be lower. The costs of implementing this service were reviewed and the Board has determined that the $6.00 fee is appropriate to cover the cost of staff time and equipment that would be needed to implement the service. Therefore, the telephone return service will be implemented for large-dollar return items and the fee will be set initially at $6.00 per return item.

Two other improvements in the return item area proposed by the Board were not well received: (1) To require notification by 3:00 p.m. eastern time, on the business day following settlement or receipt, of any return items of $100,000 or more, and (2) to offer an optional service to segregate return items from regular transactions being delivered to originating institutions that have electronic access to the Reserve Banks.

The commenters' concerns with the large-dollar notification requirement centered primarily on the use of a uniform time nationwide. West Coast institutions believed that the deadline was too early, while a later notification may be too late in the day to be useful to East Coast originating institutions. Also, commenters disagreed on the appropriate dollar cutoff for such a notification requirement. In view of these concerns, and the likelihood that the notification requirement would be of marginal benefit to the originators, the Board did not implement this proposal.

The proposal to provide an optional service to segregate return items from regular transactions and deliver the returns earlier received only 30 comments. In view of the limited response to this proposal, and the automation expense of providing such a service, the Board did not adopt this proposal.

3. Midweek and Nonstandard Holiday Closings

Under current procedures, originators of ACH credit transactions that are closed on the settlement day, because of a nonstandard holiday or midweek closing, are charged for the transactions on the next business day. The cost of the float from crediting the reserve or clearing accounts of the receiving institutions but not charging the closed originating institution is recovered from the originating institution through an as of adjustment or an explicit fee. Because Reserve Banks can reserve ACH credit payments only until the entries are posted on the settlement day, the current procedure of delaying charges to originators of ACH credit transactions increases the Reserve Banks' exposure to the risk of loss compared with settlements occurring on days that the originator is open.

The Board proposed that originating institutions that will be closed on the day credit transactions that they have originated are scheduled to settle be charged for the transactions on the settlement day as though they were open. This policy would apply to both voluntary and mandatory holiday because the institutions making these payments are aware of their obligations one or two days before the settlement date.

A majority of the commenters concurred with this proposal. Most of the commenters agreed with the Board's views that the proposal was equitable, because the originators are aware of their obligation to fund the credit payments in advance of the settlement date. Most of the commenters opposing the proposal wanted the option of being charged on the holiday or deferring the debit and paying for the consequent float through explicit fees. Deferring the debit, however, creates risk for the Federal Reserve because the Reserve Banks may not be able to reverse the credit transactions after they have been

[1] Presently the night cycle deposit deadlines vary depending on whether the payments are interregional or local, unsorted or presorted by receiving Reserve office. They range between 8:00 p.m. for interregional unsorted deposits (with provision for a file remake) to the local deposit deadline of 1:30 a.m. (for files without remake capability). Most files are depsotied by the interregional deadline for unsorted deposits (without remake)—11:00 p.m.

posted to the receivers' accounts on the settlement day. Therefore, the Board has adopted the proposal that originating institutions be charged on the settlement date as if they were open.

By order of the Board of Governors of the Federal Reserve System, December 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-29691 Filed 12-28-87; 8:45 am]

BILLING CODE 6210-01-M

Application To Engage in Various Securities Activities; the Bank of Nova Scotia, Toronto, Ontario

The Bank of Nova Scotia, Toronto, Ontario ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to acquire McLeod Young Weir Incorporated, New York, New York, and thereby engage in:

(1) Providing brokerage and investment advisory services to institutional customers on a combined basis;

(2) Providing advice in connection with mergers and acquisitions, divestitures, loan syndications, interest rate swaps, interest rate caps and similar transactions to unaffiliated financial and nonfinancial institutions; and

(3) Providing financial advice to the Canadian federal and provincial governments, such as with respect to the issuance of their securities in the U.S.

Applicant has also applied to engage in providing discount brokerage services to non-institutional customers; furnishing general economic information and advice, general economic statistical forecasting services and industry studies to institutional customers; providing portfolio investment advice and research to institutional customers; and underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks are authorized to underwrite and deal in under 12 U.S.C. 24 and 335. The Board has previously found these latter activities to be generally permissible for bank holding companies. 12 CFR 225.25(b)(15), (4)(iv), (4)(iii) and (16) respectively.

The Board previously has determined that the combined offering of investment advice with securities brokerage services to institutional customers from the same bank holding company subsidiary is a permissible nonbanking activity and does not violate the Glass-Steagall Act. *National Westminster Bank PLC*, 72 Federal Reserve Bulletin 584 (1986) ("*NatWest*"); *Manufacturers Hanover Corporation*, 73 Federal Reserve Bulletin 930 (1987) ("*Manufacturers Hanover*"). That position has been upheld by the U.S. Court of Appeals for the District of Columbia Circuit in its affirmance of the Board's *NatWest* Order. *Securities Industry Ass'n* v. *Board of Governors*, 821 F.2d 810 (D.C. Cir. 1987), *petition for cert. filed*, 56 U.S.L.W. 3303 (U.S. Oct. 5, 1987) (No. 87-562). Applicant has proposed to conduct its brokerage activity in accordance with the limitations approved by the Board in *Manufacturers Hanover* with one eception. In *Manufacturers Hanover*, the Board permitted management interlocks between the securities subsidiary and the holding company but not with the bank affiliates. Applicant has proposed to have management interlocks between Company and its bank affiliate, the Bank of Nova Scotia ("Bank"). Applicant contends that this modification will not result in adverse effects because Bank does not accept insured deposits within the U.S.

Applicant has also proposed to engage in providing advice in connection with financing transactions for non-affiliated financial and nonfinancial institutions, as previously approved by the Board in *Sovran Financial Corporation*, 73 Federal Reserve Bulletin 744 (1987).

The Board has not previously approved Applicant's third activity, providing financial advice to the Canadian federal and provincial governments, such as with respect to the issuance of their securities in the U.S.

Section 4(c)(8) of the BHC Act provides that a bank holding company may engage in any activity which the Board has determined to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n* v. *Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 *Federal Register* 806 (1984).

Applicant believes that providing financial advice to the Canadian federal and provincial governments, such as with respect to the issuance of their securities in the U.S., is closely related to banking because of the similarity of this activity to providing financial advice to state and local governments, which the Board has found to be generally permissible for bank holding companies. 12 CFR 225.25(b)(4)(v). In addition, Applicant notes that § 211.5(d)(8) of the Board's Regulation K authorizes the provision of financial advisory services to foreign government entities. 12 CFR 211.5(d)(8).

In determining whether Applicant's proposed activity meets the second, or proper incident to banking test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Applicant believes that providing financial advice to the Canadian federal and provincial governments will enhance competition and will not result in adverse effects in light of its similarity to the activity of providing financial advice to state and local governments, previously incorporated into Regulation Y as a permissible nonbanking activity. 12 CFR 225.25(b)(4)(v).

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than January 22, 1988. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, December 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-29690 Filed 12-28-87; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Employee Thrift Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), a notice is hereby given of the following committee meeting:

Name: Employee Thrift Advisory Council.

Time and date: 10:00 a.m., January 12, 1988.

Place: Conference Room 5141-A, General Services Administration Building, 18th & F Streets, NW., Washington, D.C.

Status: Open.

Matters to be considered: Approval of the minutes of the October 13, 1987 meeting; Thrift Savings Plan participation and investment funds; employee survey; participant loan program; and status of proposed legislation.

Any interested person may attend, appear before, or file statements with the Council. For further information contact John J. O'Meara on (202) 653-2573.

Dated: December 23, 1987.

Francis X. Cavanaugh,

Executive Director.

[FR Doc. 87-29791 Filed 12-28-87; 8:45 am]

BILLING CODE 6710-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Voting Members on Public Advisory Committee

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on the Veterinary Medicine Advisory Committee in FDA's Center for Veterinary Medicine. Five vacancies will occur on the committee on October 31, 1988.

DATE: No cutoff date is established for receipt of nominations.

ADDRESS: All nominations for membership should be submitted to Max L. Crandall (address below).

FOR FURTHER INFORMATION CONTACT: Max L. Crandall, Center for Veterinary Medicine (HFV-4) Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3450.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations of voting members on the Veterinary Medicine Advisory Committee.

The function of the committee is to: (1) Review and evaluate available information concerning the safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal disease and increased animal production; and (2) make appropriate recommendations to the Commissioner of Food and Drugs.

Criteria for Members

Persons nominated for membership on the Veterinary Medicine Advisory Committee shall have adequately diversified experience appropriate to the work of the committee in such fields as companion animal medicine, food animal medicine, avian medicine, microbiology, biometrics, toxicology, pathology, pharmacology, animal science, and chemistry. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is 3 or 4 years.

Nomination Procedures

Any interested person may nominate one or more qualified persons for membership on the advisory committee. Nominations shall state that the nominee is willing to serve as a member of the advisory committee and appears to have no conflict of interest that would preclude committee membership. FDA asks potential candidates to provide detailed information concerning such matters as employment, financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and handicapped candidates.

This notice is issued under Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Date: December 22, 1987

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-29698 Filed 12-28-87; 8:45 am]

BILLING CODE 416-01-M

[Docket No. 87F-0398]

University of California (Davis Campus); Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the University of California (Davis Campus), Cooperative Extension Service has filed a petition proposing that the food additive regulations be amended to provide for using an elemental selenium bolus for beef cattle as a nutritional supplement.

FOR FURTHER INFORMATION CONTACT: Woodrow M. Knight, Center for Veterinary Medicine (HFV-226), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5362.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2209) has been filed by the Cooperative Extension Service, University of California (Davis Campus), Davis, CA 95616.

The petition proposes that 21 CFR 573.920 *Selenium* be amended to provide for the safe use of a bolus containing elemental selenium which is given to beef cattle over 3 months of age as a nutritional selenium supplement.

The potential environmental impact of this action is being reviewed. The environmental assessment prepared by the petitioner may be seen at Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Comments from the public are invited. Those received within 60 days of this notice will be considered. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the rule in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: December 18, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-29699 Filed 12-28-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: W. J. Sork, PRT-723747, Metairie, LA.

The applicant requests a permit to import the personal sport-hunted trophy of a bontebok (Damaliscus dorcas dorcas), culled from the herd of Mr. F. W. M. Bowker, Grahamstown, Republic of South Africa, for the purpose of enhancement of propagation.

Applicant: Vance B. Grannis, Jr., PRT-723848, Inver Grove Heights, MN.

The applicant requests a permit to import one pair of Humes bar-tailed pheasants (Syrmaticus humiae), five pairs of white-eared pheasants (Crossoptilon crossoptilon), one male Edwards pheasant (Lophura edwardsi), six pairs of Mikado pheasants (Syrmaticus mikado), one pair of Palawan pheasants (Polypectron emphanum) and one pair of nene geese (Nesochen (-Branta) sandvicensis) for breeding purposes. All birds were captive-hatched in Canada at Sout View Aviaries in Burnaby, British Columbia.

Applicant: Rare Feline Breeding Center, PRT-723932, Center Hill, FL.

The applicant requests a permit to export two female leopards (Panthera pardis) bred in captivity to the Parco Faunistico "La Torbiera", Novara, Italy for the purpose of enhancement of propagation.

Applicant: Gary S. Smith, PRT-724040, Frlanger, KY.

The applicant requests a permit to import one captive born male American peregrine falcon (Falco peregrinus anatum) from Mr. John LeJeune, Falcon Farms Ltd., Agassiz, British Columbia, Canada, for captive breeding purposes.

Applicant: Animal Park, Inc., PRT-723752, Gulf Breeze, FL.

The applicant requests a permit to purchase one male lowland gorilla (Gorilla gorilla) that has been held in captivity for 20 years from Benson's Animal Park, Hudson, New Hampshire, for the purpose of conservation education. Semen will be made available for artificial insemination.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 403, 1375 K. Street NW., Washington DC 20005, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 27329, Central Station, Washington, DC 20038-7329.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: December 23, 1987.

Larry La Rochelle,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 87-29783 filed 12-28-87; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given ninety (90) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Ken Direction Corporation, Inc. authorizing it to continue to provide overnight accommodations, food and beverage, and mechandising operations for the public at Hawaii Volcanoes National Park for a period of twenty (20) years from January 1, 1988 through December 31, 2008.

The contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act, and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfication of the Secretary under an existing contract which expires by limitation of time on June 1, 1988, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the ninetieth (90) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Western Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102, for information as to the requirements of the proposed contract.

A pre-proposal conference will be held Thursday, January 21, 1988, from 9:00 a.m. to 11:00 a.m. at Hawaii Vocanoes National Park. Parties interested in attending the conference should check the bulletin board at the Hawaii Volcanoes National Park Visitor Center that morning where the nearby location of the meeting will be posted.

Date: December 15, 1987.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 87-29749 Filed 12-28-87; 8:45 am]

BILLING CODE 4310-70-M

Land and Water Conservation Fund

AGENCY: National Park Service, Interior.

ACTION: Notice; Land and Water Conservation Fund.

SUMMARY: Notice is hereby given that the National Park Service is considering an amendment to its policy regarding the sheltering of recreational facilities on lands assisted under the Land and Water Conservation Fund (L&WCF) Act of 1965, as amended (Pub. L. 88-578). The new policy will be issued as an amendment to sections 640.3 and 675.9 of the L&WCF Grants-in-Aid Manual (NPS-34).

DATES: Comments submitted within 30 days of this announcement will be considered.

ADDRESSES: Copies of the proposed policy revision are available on request from the following location: National Park Service, Recreation Grants Division (775), P.O. Box 37127, Washington, DC 20013-7127.

FOR FURTHER INFORMATION CONTACT: Randolph J. Clement or Michael Rogers of NPS-Recreation Grants Division at the address given above; telephone 202/343-3700, (FTS) 343-3700.

SUPPLEMENTARY INFORMATION: Section 6, L&WCF Act of 1965 as amended: Pub. L. 88-578; 78 Stat. 897; 16 U.S.C. 4601-4, et seq.

Denis P. Galvin

Acting Director.

[FR Doc. 87-29748 Filed 12-28-87; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. app. 1 s 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held Friday, January 22, 1988.

The Commission was reestablished pursuant to Pub. L. 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The meeting will convene at Park Headquarters, Marconi Station, South Wellfleet, Massachusetts at 1:00 p.m. for the following reasons:

1. Adoption of Agenda.
2. Approval of Minutes of Previous Meeting.
3. Old Business.
a. Adoption of Rules of Governance.
b. Annual Report Guidelines.
c. Bicycle Trails.
d. North Truro AFS Housing.
4. Superintendent's Report.
5. New Business.
a. Work Program Development.
6. Date and Agenda for Next Meeting.
7. Communications/Public Comment.

The meeting is open to the public. It is expected that 50 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting. Further information concerning this meeting may be obtained from the Superintendent, Cape Code National Seashore, South Wellfleet, MA 02663.

Herbert S. Cables, Jr.,

Regional Director.

Date: December 21, 1987.

[FR Doc. 87–29750 Filed 12–28–87; 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 December 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 January 13, 1988.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Lee County

Auburn, *Old Rotation*, Auburn University

ARIZONA

Apache County

Maverick vicinity, *PS Knoll Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Apache-Sitgreaves National Forest

McNary vicinity, *Lake Mountain Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Off Vernon McNary Rd.

Cochise County

Elfrida vicinity, *Monte Vista Lookout Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Monte Vista Peak

Portal vicinity, *Barfoot Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Buena Vista Peak

Portal vicinity, *Silver Peak Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Coronado National Forest

Coconino County

Beaver Park vicinity, *Promontory Butte Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Rim Rd., Apache-Sitgreaves National Forest

Bellemont vicinity, *Volunteer Lookout Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Kaibab National Forest

Big Springs vicinity, *Dry Park Lookout Cabin and Storage Sheds (National Forest Fire Lookouts in the Southwestern Region TR)*, Kaibab National Forest

Big Springs, *Big Springs Lookout Tower (National Forest Fire Lookouts in the Southwestern Region TR)*, Kaibab National Forest

Blue Ridge, *Moqui Lookout Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Coconino National Forest

Buck Mountain, *Buck Mountain Lookout Tower (National Forest Fire Lookouts in the Southwestern Region TR)*, Coconino National Forest

Flagstaff vicinity, *Woody Mountain Lookout Tower (National Forest Fire Lookouts in the Southwestern Region TR)*, Rogers Lake

Happy Jack vicinity, *Lee Butte Lookout Tower and Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Woods Canyon

Jacob Lake, *Jacob Lake Lookout Tower (National Forest Fire Lookouts in the Southwestern Region TR)*, Grand Canyon Hwy.

Mormon Lake vicinity, *Mormon Lake Lookout Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Coconino National Forest

Pumpkin Center vicinity, *Kendrick Lookout Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Kaibab National Forest

Twin Lakes, *Grandview Lookout Tower and Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Off Coconino Rim Rd.

Gila County

Tonot Village vicinity, *Diamond Point Lookout Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Tonto National Forest

Graham County

Bonita vicinity, *West Peak Lookout Tower (National Forest Fire Lookouts in the Southwestern Region TR)*, Coronado National Forest

Old Columbine vicinity, *Heliograph Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Coronado National Forest

Old Columbine vicinity, *Webb Peak Lookout Tower (National Forest Fire Lookouts in the Southwestern Region TR)*, Off AZ 366

Greenlee County

Mogollon Rim, *Bear Mountain Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Apache-Sitgreaves National Forest

Navajo County

Mogollon Rim, *Deer Springs Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Apache-Sitgreaves National Forest

Pima County

Tucson vicinity, *Lemmon Rock Lookout House (National Forest Fire Lookouts in the Southwestern Region TR)*, Coronado National Forest

Santa Cruz County

Tubac vicinity, *Atascosa Lookout House (National Forest Fire Lookouts in the Southwestern Region TR)*, Coronado National Forest

Yavapai County

Camp Wood vicinity, *Hyde Mountain Lookout House (National Forest Fire Lookouts in the Southwestern Region TR)*, Prescott National Forest

Mingus vicinity, *Mingus Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Prescott National Forest

Potatoe Patch vicinity, *Mount Union Lookout Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Prescott National Forest

ARKANSAS

Benton County

Bella Vista vicinity, *New Home School and Church (Benton County MRA)*, S of Bella Vista on McKisic Creek Rd.

Bella Vista, *Blackwell—Paisley Cabin (Benton County MRA)*, Suits-Us Dr.
Bella Vista, *Bogan Cabin (Benton County MRA)*, Cedarcrest Mountain
Bella Vista, *Deaton Cabin (Benton County MRA)*, Suits Us Rd.
Bella Vista, *Lamberton Cabin (Benton County MRA)*, 8 North Mountain
Bella Vista, *Pharr Cabin (Benton County MRA)*, 2 North Mountain
Bella Vista, *Princedom Cabin (Benton County MRA)* Lookout Dr.
Bella Vista, *Sutherlin Cabin (Benton County MRA)* 4 North Mountain
Bella Vista, *Wonderland Cave (Benton County MRA)* Dertmoor Rd.
Bentonville vicinity, *Breedlove House and Water Tower (Benton County MRA)* Rt. 4
Bentonville vicinity, *James House (Benton County MRA)* Rt. 2
Bentonville, *Benton County Courthouse (Benton County MRA)*, 106 S.E. A St.
Bentonville, *Benton County Jail (Benton County MRA)*, 212 N. Main St.
Bentonville, *Benton High School (Benton County MRA)*, 410 N.W. Second St.
Bentonville, *Bentonville Train Station (Benton County MRA)*, 414 S. Main St.
Bentonville, *Bertschy House (Benton County MRA)*, 507 N.W. Fifth St.
Bentonville, *Blake House (Benton County MRA)*, 211 S.E. A St.
Bentonville, *Bogart Hardware Building (Benton County MRA)*, 112 E. Central
Bentonville, *Braithwaite House (Benton County MRA)*, Old Bella Vista Hwy.
Bentonville, *Craig—Bryan House (Benton County MRA)*, 307 W. Central
Bentonville, *Daniels House (Benton County MRA)*, 902 E. Central
Bentonville, *Hagler—Cole Cabin (Benton County MRA)*, Mt. Pisqua Dr.
Bentonville, *Henry—Thompson House (Benton County MRA)*, 302 S.E. Second St.
Bentonville, *Jackson House (Benton County MRA)*, 207 W. Central
Bentonville, *Koons House (Benton County MRA)*, 409 Fifth St., NW
Bentonville, *Linebarger House (Benton County MRA)*, 606 W. Central
Bentonville, *Macon—Harrison House (Benton County MRA)*, 309 NE Second St.
Bentonville, *Maxwell—Hinman House (Benton County MRA)*, 902 N.W. Second St.
Bentonville, *Morris House (Benton County MRA)*, 4—7 S.W. Fourth St.
Bentonville, *Rice House (Benton County MRA)*, 501 N.W. A St.
Bentonville, *Roy's Office Supply Building (Benton County MRA)*, 110 E. Central
Bentonville, *Young, Col., House (Benton County MRA)*, 1007 S.E. Fifth St.
Bethel Heights, *Beasley Homestead (Benton County MRA)*, US 71
Cave Springs, *Methodist Church (Benton County MRA)*, AR 112 and AR 264
Cave Springs, *Shores Warehouse (Benton County MRA)*, Main St.
Decatur vincinity, *Spavinaw Creek Bridge (Benton County MRA)*, 4 mi. N of Decatur on CR 29
Garfield vincinity, *Markey House (Benton County MRA)*, Rt. 1
Gentry, *Bank of Gentry (Benton County MRA)*, Main St.
Gentry, *Carl House (Benton County MRA)*, 70 Main St.
Gentry, *Mitchell House (Benton County MRA)*, 115 N. Nelson
Gravette vicinity, *Bolin Barn and Smokehouse (Benton County MRA)*, SE of Gravette on Spavinaw Creek Rd.
Gravette, *Kindley House (Benton County MRA)*, 503 Charlotte St.
Hiwassee vicinity, *Banks House (Benton County MRA)*, AR 72, W of Hiwassee
Hiwassee, *Hiwassee Bank Building (Benton County MRA)*, Main St.
Logan Community vicinity, *Gailey Hollow Farmstead (Benton County MRA)*, ¼ mi. E of Logan intersection
Logan Community vicinity, *McIntyre House (Benton County MRA)*, Logan Rd.
Lowell, *Green Barn (Benton County MRA)*, McClure St.
Lowell, *Pinkston—Mays Store Building (Benton County MRA)*, 107–109 Lackson St.
Maysville vicinity, *Coats School (Benton County MRA)*, Spavinaw Creek Rd.
Maysville, *Sellers Farm (Benton County MRA)*, Old Hwy. on State Line
Monte NE vicinity, *Stack Barn (Benton County MRA)*, AR 94 Spur
Norwood Community vicinity, *Norwood School (Benton County MRA)*, Norwood Rd. and AR 16
Osage Mills, *Council Grove Methodist Church (Benton County MRA)*, Osage Mills Rd.
Osage Mills, *Osage Mills Dam (Benton County MRA)*, N of Osage Mills on Little Osage Creek
Osage Mills, *Piercy Farmstead (Benton County MRA)*, Osage Mills Rd.
Osage Mills, *Rife Farmstead (Benton County MRA)*, Osage Mills Rd.
Pea Ridge vicinity, *Shady Grove School (Benton County MRA)*, AR 94
Pea Ridge *Miller Homestead (Benton County MRA)*, ½ mi. E AR 94
Prairie Creek vicinity, *Rocky Branch School (Benton County MRA)*, 200 N. Hwy. 303
Rogers, *Bryan House No. 2 (Benton County MRA)*, 321 E. Locust St.
Rogers, *Campbell House (Benton County MRA)*, 714 W. Third St.
Rogers, *Drane House (Benton County MRA)*, 1004 S. First St.
Rogers, *Freeman—Felker House (Benton County MRA)*, 318 W. Elm St.
Rogers, *Kefauver House (Benton County MRA)*, 224 W. Cherry St.
Rogers, *Lane Hotel (Benton County MRA)*, 121 W. Poplar St.
Rogers, *Lillard—Sprague House (Benton County MRA)*, Pleasant Grove Rd.
Rogers, *Merrill House (Benton County MRA)*, 617 S. Sixth
Rogers, *Myler House (Benton County MRA)*, 315 N. Third St.
Rogers, *Parks—Reagan House (Benton County MRA)*, 410 W. Poplar St.
Rogers, *Raney House (Benton County MRA)*, 1331 Monte NE
Rogers, *Rife House (Benton County MRA)*, 1515 S. Eighth St.
Rogers, *Rogers City Hall (Benton County MRA)*, 202 W. Elm St.
Rogers, *Rogers Post Office Building (Benton County MRA)*, 120 W. Poplar St.
Rogers, *Stroud House (Benton County MRA)*, 204 S. Third St.
Rogers, *Vinson House (Benton County MRA)*, 1016 S. Fourth
Rogers, *Walnut Street Historic District (Benton County MRA)*, Walnut St.
Siloam Springs vicinity, *Gypsy Camp Historic District (Benton County MRA)*, Off AR 59
Siloam Springs vicinity, *Illinois River Bridge (Benton County MRA)*, 6 mi. E of Siloam Springs
Siloam Springs *Bartell, Fred, House (Benton County MRA)*, 324 E. Twin Springs St.
Siloam Springs, *Bratt—Smiley House (Benton County MRA)*, University and Broadway
Siloam Springs, *Connelly—Harrington House (Benton County MRA)*, 115 E. University
Siloam Springs, *Duckworth—Williams House (Benton County MRA)*, 103 S. College
Siloam Springs, *First National Bank (Benton County MRA)*, 103 S. College
Siloam Springs, *German Builder's House (Benton County MRA)*, 315 E. Central
Siloam Springs, *House at 305 E. Ashley (Benton County MRA)*, 305 E. Ashley
Siloam Springs, *Maxwell—Sweet House (Benton County MRA)*, 114 S. College
Siloam Springs, *Quell House (Benton County MRA)*, 222 S. Wright
Siloam Springs, *Siloam Springs City Park (Benton County MRA)*, Downtown Siloam Springs
Siloam Springs, *Siloam Springs Train Station (Benton County MRA)*, E. Jefferson
Siloam Springs, *Stockton Building (Benton County MRA)*, 113 N. Broadway
Siloam Springs, *Thurmond House (Benton County MRA)*, 407 Britt
Springdale, *McCleod House (Benton County MRA)*, Rt. 1
Springtown, *Wasson House (Benton County MRA)*, Main St.
Sulfur Springs vicinity *Adar House (Benton County MRA)*, Off AR 59
Sulfur Springs, *Jones House (Benton County MRA)*, 220 Bush St.
Sulfur Springs, *Shiloh House (Benton County MRA)*, Off Kibler St.
Tontitown vicinity, *Osage Creek Bridge (Benton County MRA)*, 4½ mi. N of Tontitown
Vaughn vicinity, *Douglas House (Benton County MRA)*, 8 mi. off of AR 12

CALIFORNIA

Humboldt County

Eureka, *Clark, William S. House*, 1406 C St.

Los Angeles County

Los Angeles, *South Bonnie Brae Tract Historic District*, 1026–1053 S. Bonnie Brae St. and 1830–1851 W. Eleventh St.
Los Angeles, *South Serrano Avenue Historic District*, 400 blk. of S. Serrano Ave.
Pasadena, *Smith, Ernest W., House*, 272 S. Los Robles Ave.

Sacramento County

Elk Grove, *Elk Grove Historic District*, 8986–9097 Elk Grove Blvd. also School, Gage and Grove Sts.

Sonoma County

Santa Rosa, *Sweet House*, 607 Cherry St.

CONNECTICUT

New Haven County

Milford, *Milford Point Hotel*, Milford Point Rd.
Waterbury, *Matthews and Willard Factory*, 16 Cherry Ave.
Waterbury, *Stapleton Building*, 751 N. Main St.

New London County

Norwich-Preston, *Norwich Hospital*, Ct 12

DELAWARE

Kent County

Felton, *Felton Historic District*, Roughly bounded by North, Walnut, Butterworth, Main, and Niles Sts.

New Castle County

Newark vicinity, *Poplar Hall*, 3176 Denny Rd.

FLORIDA

Gainesville, *Southeast Gainesville Residential District*, Roughly bounded by E. University Ave., S.E. Ninth St., S.E. Fifth Ave., and Sweetwater Branch

IDAHO

Gooding County

Hagerman Hatchery Site (10–GG–176)

KENTUCKY

Greenup County

Greenup, *Front Street District (Greenup MRA)*, Front St.
Greenup, *Greenup Masonic Lodge (Greenup MRA)*, 314 Main St.
Greenup, *KY 2541 Bridge (Greenup MRA)*, Main St. over Little Sandy River
Greenup, *Kouns—Hoffman House (Greenup MRA)*, 208 Jefferson St.
Greenup, *McKee House (Greenup MRA)*, 1023 Riverside Dr.
Greenup, *Methodist Episcopal Church South (Greenup MRA)*, Main St.
Greenup, *South Greenup District (Greenup MRA)*, Roughly bounded by the C & O Railroad, Laurel St., Seaton Ave., and Washington St.
Greenup, *Warnock House (Greenup MRA)*, 404 Harrison
Greenup, *West Main Street District (Greenup MRA)*, W. Main St.
Greenup, *Worthington, Col., House (Greenup MRA)*, US 23 at Academy Rd.

LOUISIANA

Rapides Parish

Alexandria vicinity, *Inglewood Plantation Historic District*), Off US 71

NEW MEXICO

Catron County

Bearwallow Park, *Bearwallow Mountain Lookout Cabins and Shed (National Forest Fire Lookouts in the Southwestern Region TR)*, Bearwallow Lookout Rd., Gila National Forest
Black Mountain, *Black Mountain Lookout Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Gila National Forest
El Caso Lake, *El Caso Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Gila National Forest
Mangas vicinity, *Mangas Mountain Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Mangas Mountain
Mogollon Baldy Peak, *Mogollon Baldy Lookout Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Gila National Forest

Grant County

Reeds Peak, *Reeds Peak Lookout Tower (National Forest Fire Lookouts in the Southwestern Region TR)*, Squeaky Spring, Gila National Forest

Lincoln County

Ruidoso, *Ruidoso Lookout Tower, (National Forest Fire Lookouts in the Southwestern Region TR)*, Lincoln National Forest
Villa Madonna vicinity, *Monjeau Lookout (National Forest Fire Lookouts in the Southwestern Region TR)*, Lincoln National Forest

Otero County

Cloudcroft vicinity, *Wofford Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Lincoln National Forest
Long Canyon vicinity, *Carrisa Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Lincoln National Forest
Sacramento vicinity, *Weed Lookout Tower (National Forest Fire Lookouts in the Southwestern Region TR)*, Lincoln National Forest
Weed vicinity, *Bluewater Lookout Complex (National Forest Fire Lookouts in the Southwestern Region TR)*, Lincoln National Forest

Rio Arriba County

Cebolla vicinity, *Canjilon Mountain Lookout Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Carson National Forest

San Miguel County

La Cueva vicinity, *Glorieta Baldy Lookout Tower (National Forest Fire Lookouts in the Southwestern Region TR)*, Santa Fe National Forest

Sierra County

Hillsboro vicinity, *Hillsboro Peak Lookout Tower and Cabin (National Forest Fire Lookouts in the Southwestern Region TR)*, Gila National Forest

PUERTO RICO

San Juan County

San Juan, *Escuela Jose Julian Acosta*, Ponce de Leon Ave.

WISCONSIN

Eau Claire County

Eau Claire, *St. Joseph's Chapel*, Sacred Heart Cemetery, Omaha St.
Eau Claire, *Temple of Free Masonry*, 616 Graham Ave.

[FR Doc. 87–29751 Filed 12–28–87; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31170]

Emons Holdings, Inc., Continuance in Control Exemption of Yorkrail, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11343 the continuance in control by Emons Holdings, Inc., of Yorkrail, Inc., subject to standard labor protective conditions.

DATES: This exemption will be effective on January 4, 1988. Petitions for reconsideration must be filed by January 21, 1988.

ADDRESSES: Send pleadings referring to Finance Docket No. 31170 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
Petitioner's representative: Larry H. Mitchell, Richard B. Felder, Arnall, Golden & Gregory, Suite 501 1000 Potomac Street, NW., Washington, DC 20007.

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 Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (D.C. Metropolitan area), assistance for hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: December 18, 1987.

By the Commission, Chairman Cradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87–29728 Filed 12–28–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31117]

Genesee & Wyoming Industries, Inc., et al, Exemption for Continuance in Control

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11343 the joint continuance in control by Genesee & Wyoming Industries, Inc. (GWI), The Arthur T. Walker Estate Corporation (Walker) and Dumaines (a trust), of Buffalo & Pittsburgh Railroad, Inc. (B&P), and the acquisition of control of Clearfield and Mahoning Railway Company (C&M) and Allegheny & Western Railway Company (A&W), by B&P, and in turn, by GWI, Walker, and Dumaines, subject to standard labor protective conditions.

DATES: This exemption will be effective on January 28, 1988. Petitions to stay must be filed by January 8, 1988, and petitions for reconsideration must be filed by January 19, 1988.

ADDRESSES: Send pleadings referrring to Finance Docket No. 31117 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner representatives: Allan L. Lefkowitz, Ten Post Office Square, Suite 1230, Boston, MA 02109.
William A. White, 1730 Pennsylvania Ave., NW., Suite 1100, Washington, DC 20006.
James B. Gray, Jr., 700 Midtown Tower, Rochester, NY 14604.

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 Dynamic Concepts Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357/4359 (D.C. Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: December 21, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-29729 Filed 12-28-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 211X)]

CSX Transportation, Inc., Abandonment Exemption for Railroad Lines in Glynn County, GA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc., of a 3.87-mile line of railroad, known as the Everett Subdivision, between milepost S-564.38, at or near Thalmann, and milepost S-568.25, at or near Bladen, in Glynn County, GA, subject to a 180 day public use condition, a section 7 Endangered Species Act condition, and standard employee protective conditions.

DATES: This exemption is effective on January 28, 1988. Petitions to stay must be filed by January 13, 1988, and petitions for reconsideration must be filed by January 25, 1988.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 211X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: Patricia Vail, 500 Water Street, Jacksonville, FL 32202.

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 Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (D.C. Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: December 18, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Simmons concurred in the result.

Noreta R. McGee,

Secretary.

[FR Doc. 87-29730 Filed 12-28-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Decree and Order; National Retail Credit Association et al.

Notice is hereby given that Associated Credit Bureaus, Inc. ("ACB"), as the sucessor to National Retail Credit Association and Retail Credit Men's National Association, original defendants in *United States* v. *National Retail Credit Association, Retail Credit Men's National Association*, et al., has filed with the United States District Court for the Eastern District of Missouri, Eastern Division, a motion for an order terminating the Decree of October 6, 1933, and the Order of October 19, 1953, entered in said action; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the Decree and Order, but has reserved the right to withdraw its consent pending receipt of public comments.

The Petition is the case, filed June 12, 1933, alleged that the defendants had conspired to restrain and monopolize interstate trade and commerce in credit reports. The Decree enjoins ACB and its members from allocating exclusive territories. The Order, among other things, enjoined defendants from discriminating against non-ACB member credit bureaus on the basis of service or price in the sale of credit reports.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the Decree and Order would serve the public interest.

Copies of the Petition, the Decree, the Order, ACB's motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the Court in connection with this motion will be available for inspection in Room 3232, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone 202-633-2481), and at the Office of the Clerk of the United States District Court for the Eastern District of Missouri, Eastern Division, United States Courthouse, 1114 Market Street, St. Louis, Missouri 63101. Copies of any of these materials may be obtained upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within the sixty day period established by Court order, and will be filed with the Court. Comments should be addressed to Barry Grossman, Chief, Communications and Finance Section, Antitrust Division, Department of Justice, 555 Fourth Street, NW., Washington, DC 20001 (telephone 202-272-4247).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87-29764 Filed 12-28-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who want to comment on the recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Bureau of Labor Statistics
Survey of Employer Anti-drug Programs
BLS
One-time survey
Business or other for profit; Non-profit institutions; Small business or organizations
6,000 responses; 1375 hours; 2 forms

The Survey of Employer Anti-drug Programs will collect information on the prevalence of drug testing and rehabilitation programs and the number of employees directly affected at establishments across the private sector of the U.S. economy. The results will provide estimates and measures of reliability of these characteristics for limited industry, geography and establishment size detail.

Bureau of Labor Statistics
Feasibility Study
OSHA Form 200; OSHA Form 101
Non-recurring
Selected Private employers
4,500 responses; 4075 hours; 2 forms

The Feasibility Study will examine the ability of employers to submit Occupational Safety and Health Administration Logs and Supplementary Records. The results of the study will be used in improving the Bureau of Labor Statistics' Occupational Safety and Health Statistics Program.

Revision

Employment and Training Administration
1205-0211; ETA 8580
Annually
State or local governments
57 respondents; 364,017 burden hours; 1 form

JTPA Reporting Requirements are necessary for the Secretary to carry out responsibilities specific at sections 106, 165 and 169 of the JTPA.

Reinstatement

Occupational Safety and Health Administration
Occupational Exposure to Toxic Substances in Laboratories, OSHA 271
1218-0131
Recordkeeping; On occasion
Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
0 respondents; 1 burden hour; 0 forms

Proposed records are to provide needed information to employers and employees regarding appropriate work practices and to provide basis for whatever medical follow-up is appropriate when overexposures may have occurred. Also valuable for later determination of health effects. Laboratory operators are affected public.

Signed at Washington, DC this 22nd day of December, 1987.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 87-29701 Filed 12-28-87; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Termination of Certification of Eligibility to Apply for Adjustment Assistance; AT&T Information Systems

TA-W-16, 732T Kent, WA;
TA-W-16, 733T Miami, FL; and
TA-W-16, 738T Minneapolis, MN

In accordance with section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-16,732T; TA-W-16,733T and TA-W-16,738T: investigations regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in section 223(d) of the Act.

On July 3, 1986, workers engaged in employment related to the warehousing and shipping at the Kent, Washington; Miami, Florida; and Minneapolis, Minnesota service centers locations of AT&T Information Systems were certified as eligible to apply for trade adjustment assistance. The Notice of Certification was published in the **Federal Register** on July 23, 1986 (51 FR 26483).

The investigation regarding termination was initiated on November 20, 1987, to determine whether workers at the subject locations continue to meet the group eligibility requirements of section 222 of the Act. The Notice of Investigation was published in the **Federal Register** on November 30, 1987 (52 FR 45513). No public hearing was requested and none was held.

Whenever it becomes evident that any of the Group Eligibility Requirements of section 222 of the Trade Act of 1974 are no longer met, the certification as issued must be revised to include a termination date.

Without regard as to whether the other criteria are satisfied, the investigation reveals that the third

criterion is no longer being met with respect to workers at the Kent, Washington; Miami, Florida; and Minneapolis, Minnesota warehouses.

Subsequent information has revealed that warehouse workers at the subject locations no longer perform storage and shipment functions of domestically produced residential telephone sets. The original certifications of July 3, 1986 were based on the certification of workers at AT&T Information Systems' Shreveport, Louisiana plant (TA-W-16 313). A large percentage of activities at the subject locations was related to Shreveport's production of residential telephone sets. Shreveport's production of such sets ceased in December 1985 and AT&T Information Systems now relies entirely on foreign production for residential telephone sets.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that the total or partial separations of workers performing warehouse and shipping activities at AT&T Information Systems' warehouses in Kent, Washington; Miami, Florida; and Minneapolis, Minnesota are no longer attributable to the conditions specified in section 222 of the Trade Act of 1974.

In accordance with section 223(d) of the Act, I hereby revise the certification of July 3, 1986 as follows:

"All workers engaged in employment related to the repair, refurbishment, warehousing and shipping of telephone sets and related equipment at the following service center locations of AT&T Information Systems who became totally or partially separated from employment on or after and before the dates listed below are eligible to apply for adjusment assistance under section 223 of the Trade Act of 1974."

TA-W-#	Facility location	Impact date		Termination date	
		Shop	Warehouse	Shop	Warehouse
16, 732	Kent, WA	9/30/84	9/30/84	5/1/86	12/21/87
16, 733	Miami, FL	9/30/84	9/30/84	3/31/86	12/21/87
16, 738	Minneapolis, MN	NC	9/30/84	NC	12/21/87

NC=Not Certified.

That portion of the certification relevant to AT&T Information Systems workers at the following service center locations in Dallas, Texas; Phoenix, Arizona; Ballwin, Missouri; Plymouth, Michigan; Milwaukee, Wisconsin; Nashville, Tennessee; Whitestone, New York; and Omaha, Nebraska is not revised.

Signed at Washington, DC, this 17th day of December 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-29702 Filed 12-28-87; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Beaumont Co., et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 8, 1988.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 8, 1988.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC this 21st day of December 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Beaumont Company (Firm)	Morgantown, WV	12/21/87	12/4/87	20,339	Glassware.
Cameron Iron Works, Ball Valve Div. (Workers)	Sealy, TX	12/21/87	12/9/87	20,340	Ball Valves.
Crosetti Frozen Foods, Inc. (Teamsters)	Watsonville, CA	12/21/87	12/7/87	20,341	Frozen Foods.
Dalton Factor Store (Workers)	North Olmsted, OH	12/21/87	11/25/87	20,342	Apparel.
Dana Engine Products (UAW)	Hagerstown, IN	12/21/87	12/8/87	20,343	Trucks/Automotive Rings
Flynn & Enrich Co. (Company)	Baltimore, MD	12/21/87	12/2/87	20,344	Iron Castings.
General Motors Corp. (UAW)	Columbus, OH	12/21/87	12/11/87	20,345	Automotive Hardware.
Green Brook Corp. (Workers)	Hialeah, FL	12/21/87	12/9/87	20,346	Dresses.
Greenwich Colleries (MWA)	Barnesboro, PA	12/21/87	12/8/87	20,347	Coal.
Maine Woods (Workers)	Livermore, ME	12/21/87	12/9/87	20,348	Shoes.
Reichert Stamping, Co. (UAW)	Toledo, OH	12/21/87	12/9/87	20,349	Automotive Parts.
Safety Clothing & Equipment, Co. (Workers)	Willoughby, OH	12/21/87	3/4/87	20,350	Clothing.
Steven Knitting Mills, Inc. (ILGWU)	New York, NY	12/21/87	12/7/87	20,351	Knitting Material.

APPENDIX—Continued

Petitioner (Union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Whistles, Incorp. (ILGWU)	Cuba, MO	12/21/87	12/1/87	20,352	Shoes & Boots.

[FR Doc. 87-9703 Filed 12-28-87; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-19,929]

Negative Determination Regarding Application for Reconsideration; General Motors Corp., CPC Pontiac, Pontiac, MI

After being granted a filing extension, the company requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at General Motors Corporation, CPC Pontiac, Pontiac, Michigan. The denial notice was signed on September 28, 1987 and published in the **Federal Register** on October 23, 1987 (52 FR 9717).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or the law justified reconsideration of the decision.

The company claims that production at the CPC Pontiac plant was integrated with production at the CPC Fiero plant, Pontiac, Michigan whose workers were certified for adjustment assistance on September 23, 1987 (TA-W-19,928).

A review of the data submitted by the company reveals that there is still not sufficient integration of CPC Pontiac production with the CPC Fiero plant to warrant certification. Only a small amount of the Foundry, Press Metal and Engine Plant Operations were integrated with the production at the CPC Fiero plant in Pontiac.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 18th day of December, 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management.

[FR Doc. 87-29704 Filed 12-28-87; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; GTE Communication Systems Corp. et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 14, 1987—December 18, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-20,181; GTE Communication Systems Corp., Northlake, IL

TA-W-20,186; General Motors Corp., New Departure—Hyatt Tonawanda Forge, Tonawanda, NY

TA-W-20,216; Producto Machine Co., Bridgeport, CT

TA-W-20,247; Carondolet Coke Corp., St. Louis, MO

TA-W-20,217 and TA-W-20,218; River Cement Co., Selma Plant—Festus, MO, Distribution Terminal—St. Louis, MO

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20,229; Statomat-Globe, Inc., Dayton, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,187; Marathon LeTourneau, Brownsville, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,185; General Motors Corp., Fisher-Guide Elyria Plant, Elyria, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,103; Inland Steel Co., Indiana Harbor Works, East Chicago, IN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,201; Allied Bendix Aerospace Fluid Power Division, Utica, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,212; Murray Ohio Manufacturing Co., Lawrenceburg, TN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,245; Beth-Energy Mine Corp., Ebensburg, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,228; Motorola, Inc., Communications Sector, Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,224; GFM Restura, Cumberland, MD

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-20,214; NIBCO of Colorado, Inc., Lajunta, CO

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,231; Fox and Jacobs, Inc., A Subsidiary of Centex Real Estate Corp., Carrollton, TX

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-20,173; Advance Transformer Co., Monona, IA

A certification was issued covering all workers of the firm separated on or after October 5, 1986.

TA-W-20,211; H & H Plastic Co., Inc., Paramount, CA

A certification was issued covering all workers of the firm separated on or after September 1, 1987.

TA-W-20,219; Tioga Foundry Corp., Oswego, NY

A certification was issued covering all workers of the firm separated on or after October 16, 1986.

TA-W-20,190; National Standard Co., Athenia Steel Div., Clifton, NJ

A certification was issued covering all workers of the firm separated on or after October 8, 1986.

TA-W-20,189; Monsanto Chemical Co., Nitro, WV

A certification was issued covering all workers of the firm separated on or after October 8, 1986.

TA-W-20,237; Hatch, Inc., El Paso, TX

A certification was issued covering all workers of the firm separated on or after October 26, 1986.

TA-W-20,163; G.W. Petroleum, Inc., Denver, CO

A certification was issued covering all workers engaged in production of crude oil and gas separated on or after September 28, 1986.

I hereby certify that the aforementioned determinations were issued during the period December 14, 1987—December 18, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: December 22, 1987.

[FR Doc. 87-29705 Filed 12-28-87; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under the Office of Management and Budget Review

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before January 28, 1988.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-786-0233) and Ms. Elaina Norden, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202-395-6880.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-786-0233) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504 (h).

Category: Extension

Title: General Programs: Public Humanities Projects/Guidelines and Application Instructions

Frequency of Collection: Twice a year at each deadline

Respondents: Colleges and universities, libraries, private, non-profit organizations, civic and professional groups, or branches of state or local government

Use: Collection of information provides a basis for evaluation of applications in the competitive review process

Estimated Number of Respondents: 82

Estimated Hours for Respondents to Provide Information: 6,560

Susan Metts,

Director of Administration.

[FR Doc. 87-29727 Filed 12-28-87; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Graduate Fellowship Program Review Committee; Meeting

The National Science Foundation announces the following meeting:

Name: Committee to Review the Graduate Fellowship Program.

Date and Time: January 13, 14 and 15, 1988, 8:30 to 5:00 each day.

Place: Room 1243, 1800 G Street, NW.

Type of Meeting: Open.

Contact Person: Dr. James Fred Hays, Senior Science Advisor, National Science Foundation, 1800 G Street, NW., Room 518, Washington, DC 20550, (202) 357-9443.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: Conduct program review of Graduate Fellowship Program and Minority Graduate Fellowship Program.

Agenda: Wednesday: Hear reports from NSF staff and others on goals, history, and operation of programs. Thursday and Friday: Discussion of issues by Committee, outlining of report, writing assignments.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-29740 Filed 12-28-87; 8:45 am]

BILLING CODE 7555-01-M

Systematic Biology Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Systematic Biology.

Date and Time: January 11 and 12, 1988-8:30 a.m. to 5:00 p.m. each day.

Place: Room 1243, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. James E. Rodman, Acting Program Director, Systematic Biology (202) 357-9588, Room 215, National Science Foundation, Washington, DC 20550.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations

concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c). Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-29741 Filed 12-28-87; 8:45 am]

BILLING CODE 7555-01-M

Task Force on Women, Minorities and the Handicapped in Science and Technology; Meeting and Public Hearing

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92-463), notice is hereby given of a meeting of the Task Force on January 13, 1988, followed by a public hearing on January 14, 1988.

Meeting

Name: Task Force on Women, Minorities, and the Handicapped in Science and Technology.

Date: January 13, 1988.

Time: 2:00 p.m. to 5:00 p.m.

Place: California State University, Headquarters Building, 400 Golden Shore, Long Beach, CA 90802-4275.

Type of Meeting: Open.

Purpose: The purpose of the Task Force on Women, Minorities and the Handicapped is to:

—examine the current status of women, minorities and the disabled in science and engineering positions in the federal government and in federally-assisted research programs;

—coordinate existing federal programs designed to promote the employment of women, minorities and physically disabled scientists and engineers;

—suggest cooperative interagency programs for promoting such employment;

—identify exemplary programs in the state, local or private sectors and;

—develop a long-range plan to advance opportunities for women, minorities, and disabled persons in science and technology.

Agenda: Reports will be heard on progress of the subcommittees on Employment, Research, Higher Education, Precollege Education and Social Aspects, as well as other business of the Task Force.

Public Hearing

Name: Task Force on Women, Minorities and the Handicapped in Science and Technology.

Date: January 14, 1988.

Time: 9:30 a.m. to 3:00 p.m.

Place: California State University, Dominguez Hills, Victoria and Avalon, Carson, CA 90747.

Purpose: The Task Force will seek testimony from interested parties on innovative ways to increase opportunities for women, minorities and the handicapped in science and technology in the areas of employment, research, higher education, precollege education and social aspects.

Testimony will be heard in three ways: (1) Scheduled testimony of ten-minute summary presentations accompanied by longer written statements and supporting documents for the record; (2) summary statements from the floor of three-minute duration accompanied by any longer written statements or materials for the record; and (3) written testimony submitted to the Task Force offices from those who cannot be heard because of time constraints or those who cannot attend.

Anyone wishing to testify or submit a statement for the record should write Sue Kemnitzer, Executive Director, Task Force on Women, Minorities and the Handicapped in Science and Technology, 330 C Street, SW., Washington, DC 20201.

The public hearing will be followed by a discussion of the testimony by the Task Force members.

All meetings and public hearings of the Task Force are open to the public and all proceedings will be recorded and will be available at the Task Force offices.

December 7, 1987.

Sue Kennitzer,

Executive Director.

[FR Doc. 87-29742 Filed 12-28-87; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Effective December 21, 1987, the following Nuclear Regulatory Commission Headquarters Offices have been relocated at the agency's new office building located at One White Flint North: the Office of Enforcement, the Office of Special Projects, and the following units of the Office of the General Counsel: the Division of Hearings, the Division of Enforcement, the Division of Administration, and the Division of Rulemaking and Fuel Cycle, the Program Support Branch, and the Law Library.

One White Flint North is located at 11555 Rockville Pike, Rockville, Maryland. The agency's mailing address remains unchanged—U.S. Nuclear Regulatory Commission, Washington, DC 20555. Specific telephone numbers for the relocated personnel may be obtained from the NRC Operator on 301-492-7000. A new telephone directory (NUREG/BR-0046) is expected to be issued in February 1988.

Dated at Bethesda, Maryland this 23rd day of December 1987.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Rules and Records, Office of Administration and Resources Management.

[FR Doc. 87-29770 Filed 12-28-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-456 and 50-457]

Commonwealth Edison Co.; Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF-72 and NPF-75, issued to Commonwealth Edison Company (the licensee), for operation of the Braidwood Units 1 & 2 located in Will County, Illinois.

The amendment in accordance with the licensee's application dated December 3, 1987 would modify the DC system technical specifications to address operation of the DC crosstie between units for the following two situations:

With both units operating and one battery charger fails, the DC crosstie may be used, for up to 24 hours, to maintain the DC bus in an operable status while the battery charger is being repaired.

With one unit operating and the other unit shutdown with a battery and its associated battery charger out of service, the DC crosstie may be used for up to seven days, to maintain the DC bus in an operable status.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended

(the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

This proposed amendment controls the use of the DC crosstie between opposite unit DC buses. Accidents previously evaluated assume a certain load profile on a DC bus. The DC bus loading, when using the crosstie, will be restricted so the capacity of the operating unit's battery will not be exceeded in the event of a single failure and simultaneous accident and loss of offsite power conditions. A single failure and simultaneous accident and loss of offsite power are the conditions assumed for a DC bus in previously evaluated accidents. As a result, the probability or consequences of accidents previously evaluated are not changed by this proposed amendment.

The only new or different kind of accident which could be created by this proposed amendment would involve an interaction between the two DC buses which are crosstied. However, a breaker exists on either side of the crosstie which would isolate any potential short circuit from either unit. These breakers are coordinated with the DC bus main breaker to assure the crosstie will isolate from the affected DC bus before the battery would be isolated. All of these breakers are Class 1E. For these reasons, a new or different kind of accident will not be created from this proposed amendment.

This proposed amendment will allow use of some margin in the capacity of the batteries which was allocated for future DC loads. However, no design margin in the batteries (i.e., aging or temperature correction factors) has been affected by this proposed amendment. Accordingly, no margin of safety has been reduced.

Based on the preceding assessment, the Commission believes this proposed amendment involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 28, 1988 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or any Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by § 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The peitition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first perhearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonably specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witness.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action,

it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Wester Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should be sent to the Office of the General Counsel—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael Miller, Esq., Isham, Lincoln, and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602, attorney for the license.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Bethesda, Maryland this 23rd day of December 1987.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director Project Directorate III-2 Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87-29771 Filed 12-28-87; 8:45 am]

BILLING CODE 7590-01-M

PEACE CORPS

Submission of Public Use Form Review Request to the Office of Management and Budget

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), Peace Corps has submitted to the Office of Management and Budget for review, a request to approve the use of the Request For Information through February 28, 1991. The card is a way for citizens to let Peace Corps know they wish to receive information on the Agency and its programs. The information provided allows Peace Corps to determine what to send to the requester.

Title: Request for Information Card.

Type of Request: Extension.

Frequency of Collection: On Occasion.

General Description of Respondents: Citizens interested in receiving information about the Peace Corps.

Estimated Number of Responses: 55,000.

Estimated Hours for Respondents to Furnish Information: 1,650 (Approximately 1 minute 45 seconds per reponse).

Comments: Comments on this form request should be directed to Francine Picoult, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

A copy of the form may be obtained from Mr. Noel McCaman, Office of Recruitment, Room M-1106, 806 Connecticut Avenue, NW., Washington, DC 20526. Mr. McCaman may be called at (202) 254-6480. This is not a request to which 44 U.S.C. 3504(h) applies. This notice is issued in Washington, DC on December 29, 1987.

Daniel Garcia,

Acting, Associate Director for Management.

[FR Doc. 87-29724 Filed 12-24-87; 8:45 am]

BILLING CODE 6051-01-M

Submission of Public Use Form Review Request to the Office of Management and Budget

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), Peace Corps has submitted to the Office of Management and Budget for review, a request to approve the use of the Follow-up and Program Evaluation Guide through February 1, 1991. The Guides are used to call selected persons who have requested an application and information on Peace Corps service, and have voluntarily given us their phone number. The call is placed to: (1) Verify that the information sent was received and met the individual's needs, (2) to encourage the individual submit an application for Peace Corps service, and, (3) to evaluate our communications with the public.

Title: Follow-up and Program Evaluation Guide.

Type of Request: New Collection.

Frequency of Collection: On Occasion.

General Description of Responsents: Citizens who requested and were sent information and an application for Peace Corps service.

Estimated Number of Responses: 5,000.

Estimated Hours for Respondents to Furnish Information: 258.5 hours (a little over 3 minutes per response).

Comments: Comments on this form should be directed to Francine Picoult, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

A copy of the form may be obtained from Mr. Noel McCaman, Office of Recruitment, Room M-1106, 806 Connecticut Avenue, NW., Washington, DC 20526. Mr. McCaman may be called at (202) 254-6480. This is not a request to which 44 U.S.C. 3504(h) applies. This notice is issued in Washington, DC on December 29, 1987.

Daniel Garcia,

Acting, Associate Director for Management.

[FR Doc. 87-29725 Filed 12-28-87; 8:45 am]

BILLING CODE 6051-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading, Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

December 23, 1987.

The above named national securities exchange has filed appliations with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Canandaigua Wine Company
Class A Common Stock, $.01 Par Value (File No. 7-0936)
Canandaigua Wine Company
Class B Common Stock (File No. 7-0937)
CDI Corp.
Common Stock, $.10 Par Value (File No. 7-0938)
Citadel Holding Corp.

Common Stock, $.01 Par Value (File No. 7-0939)
Chambers Development Company, Inc.
Class A Common Stock, $.50 Par Value (File No. 7-0940)
Chambers Development Company, Inc.
Class B Common Stock, $.50 Par Value (File No. 7-0941)
CETEC Corporation
Common Stock, $.01 Par Value (File No. 7-0942)
Central Fund of Canada Limited
Class A Common Stock, No Par Value (File No. 7-0943)
Convest Energy Partners, Ltd.
Units, No Par Value (File No. 7-0944)
Centennial Group
Common Stock, $.01 Par Value (File No. 7-0945)
Central Securities Corp.
Common Stock, $1.00 Par Value (File No. 7-0946)
Citizens First Bancorp, Inc.
Common Stock, No Par Value (File No. 7-0947)
City Gas Company of Florida
Common Stock, Common Stock, $1.00 Par Value (File No. 7-0948)
Cagle's Inc.
Class A Common Stock, $1.00 Par Value (File No. 7-0949)
Cognitronics Corporation
Common Stock, $.20 Par Value (File No. 7-0950)
Chariot Group
Common Stock, $.10 Par Value (File No. 7-0951)
Champion Products Inc.
Common Stock, $1.00 Par Value (File No. 7-0952)
Charter Power Systems, Inc.
Common Stock, $.01 Par Value (File No. 7-0953)
Chieftain Development Co., Ltd.
Common Stock, No Par Value (File No. 7-0954)
Concord Fabrics, Inc.
Common Stock, $1.00 Par Value (File No. 7-0955)
California Jockey Club
Common Stock, $.01 Par Value (File No. 7-0956)
Caesars New Jersey, Inc.
Common Stock, $.10 Par Value (File No. 7-0957)
Conchemco, Inc.
Common Stock, $2.00 Par Value (File No. 7-0958)
Clark Consolidated Industries Inc.
Common Stock, $.10 Par Value (File No. 7-0959)
Color Systems Technology, Inc.
Common Stock, $.15 Par Value (File No. 7-0960)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 15, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary

[FR Doc. 87-29776 Filed 12-28-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

December 23, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Inspiration Resources Corp.
Common Stock, No Par Value (File No. 7-0931)
Pope & Talbot, Inc.
Common Stock, $1.00 Par Value (File No. 7-0932)
Royal International Optical Corp.
Common Stock, $0.10 Par Value (File No. 7-0933)
Digital Communications Associates, Inc.
Common Stock, $0.10 Par Value (File No. 7-0934)
Saatchi & Saatchi Co., PLC
American Depositary Shares (File No. 7-0935)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 15, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-29777 Filed 12-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16184; 811-3263]

Guidance Investments, Inc.; Notice of Application

December 22, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

Applicant: Guidance Investments, Inc.

Relevant 1940 Act Section: Section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application on Form N-8F was filed November 16, 1987, and amended on December 15, 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 January 15, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, D.C. 20549. Applicant, 6605 N. Rustic Oak Ct., Peoria, IL 61614.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272-2190 or Brion R. Thompson, Special Counsel (202) 272-3016 (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 which may be

contacted at (800) 321-3282 (in Maryland (301) 258-4300).

Applicant's Representations:

1. Applicant is organized as an Illinois corporation and is registered as an open-end, diversified, management investment company under the 1940 Act.

2. On September 13, 1987, the Applicant's Board of Directors adopted a resolution recommending the dissolution of the Applicant. The dissolution proposal was submitted to Applicant's shareholders in the form of a proxy statement filed with the SEC. On November 1, 1987, at a special meeting of the shareholders, the Applicant's shareholders unanimously approved the dissolution of the Applicant.

3. All securityholders have been redeemed at net asset value with the final redemptions taking place on November 1, 1987. Applicant intends to file its Articles of Dissolution under the Illinois Business Corporation Act, and undertakes to file its Form N-SAR due for the period ending March 31, 1988.

4. Within the last 18 months, Applicant has not transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant. In addition, Applicant is not a party to any litigation or administrative proceeding, and is not now engaged and does not propose to engage in any business activities other than those necessary for winding up its affairs. The expenses incurred in connection with the liquidation were paid by Applicant, and there are no outstanding debts or liabilities.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-29778 Filed 12-28-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-9183]

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; Harley-Davidson, Inc.

December 23, 1987.

Harley-Davidson, Inc. ("Company") has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange, Inc. ("Annex"). The Company's common stock is also listed on the New York Stock Exchange ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before January 15, 1988, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-29779 Filed 12-28-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-6687]

Issuer Delisting; Notice of Application To Withraw From Listing and Registration; Johnston Industries, Inc.

December 23, 1987.

Johnston Industries, Inc. ("Company") has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange, Inc. ("Amex"). The Company's common stock is also listed on the New York Stock Exchange ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before January 15, 1988, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-29780 Filed 12-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16187; 812-6806]

Lomas Mortgage Funding Corporation II; Notice of Application

December 22, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Lomas Mortgage Funding Corporation II (the "Applicant").

Relevant 1940 Act Sections: Exemption requested under Section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks a conditional order exempting the Applicant from all provisions of the 1940 Act in connection with the Applicant's issuance of collateralized mortgage obligations.

Filing Date: The application was filed on July 27, 1987 and amended on December 16, 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 January 15, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with

proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, D.C. 20549. Applicant, 2001 Bryan Tower, Suite 3600, Dallas, Texas 75201.

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, Office of Investment Company Regulation).

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).

Applicant's Representation

1. The Applicant is a wholly-owned, limited purpose finance subsidiary of Lomas Mortgage Corporation, a publicly-traded real estate investment trust listed on the New York Stock Exchange. The Applicant, a Delaware corporation formed on July 16, 1987, was organized solely for the purpose of issuing collateralized mortgage obligations ("Bonds") in one or more series.

2. The Applicant will issue each series of Bonds under the terms of an indenture ("Indenture") between the Applicant and an independent trustee ("Indenture Trustee"), as supplemented by one or more series supplements. The Indenture will be qualified under the Trust Indenture Act of 1939 unless an appropriate exemption is available. Each series of Bonds will be registered under the Securities Act of 1933 ("1933 Act"), unless offered in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act.

3. The mortgage collateral ("Mortgage Certificates") underlying the Bonds will consist of (1) "fully-modified" pass-through mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), (2) mortgage participation certificates issed by the Federal Home Loan Mortgate Corporation ("FHLMC Certificates"), (3) guaranteed mortgage pass-through securities issued by the Federal National Mortgage Association ("FNMA Certificates"), (4) pass-through certificates and participation certificates which are neither issued nor guaranteed by an agency or instrumentality of the United States and which evidence undivided interests in pools of mortgage loans secured by single family (one-to-four-units) residences ("Private Certificates"), or (5) a combination of such Mortgage Certificates. (GNMA Certificates, FNMA Certificates and FHLMC Certificates collectively, "Agency Certificates").

4. In the case of each series of Bonds: (a) The Applicant will hold no substantial assets other than Mortgage Certificates and cash; (b) the Bonds will be secured by Mortgage Certificates or cash having a collateral value determined under the Indenture, at the time of issuance and following each payment date for such Bonds, equal to or greater than the outstanding principal balance of the Bonds; (c) distributions of principal and interest received on the Mortgage Certificates securing the Bonds and any applicable reserve funds, plus reinvestment income thereon, will be sufficient to pay all interest on the Bonds and to retire each class of Bonds by its stated maturity; and (d) the Mortgage Certificates will be assigned by the Applicant to the Indenture Trustee and will be subject to the lien of the related Indenture. Applicant does not anticipate that the Mortgage Certificates securing any series of Bonds will have a collateral value which exceeds 120% of the aggregate principal amount of the related Bonds.

5. Neither the Applicant nor the Indenture Trustee will be able to impair the security afforded by the Mortgage Certificates to the holders of the Bonds. That is, without the consent of each Bondholder to be affected, neither the Applicant nor the Indenture Trustee will be able to: (1) Change the stated maturity on any Bonds; (2) reduce the principal amount or the rate of interest (or the formula by which such rate is computed) on any Bonds; (3) change the priority of payment on any class of any series of Bonds; (4) impair or adversely affect the Mortgage Certificates securing a series of Bonds; (5) permit the creation of a lien ranking prior to or an parity with the lien of the related Indenture with respect to the Mortgage Certificates; or (6) otherwise deprive the Bondholders of the security afforded by the lien of the Indenture.

6. Except to the extent permitted by the limited rights to substitute collateral, it will not be possible for the Applicant to alter the collateral initially pledged to secure a series of Bonds, and in no event will such right to substitute collateral result in a diminution in the value or quality of such collateral. Although it is possible that any collateral substituted for collateral initially pledged may have a different prepayment experience than the original collateral, the interests of the Bondholders will not be impaired because: (a) The prepayment experience of any collateral will be determined by market conditions beyond the control of the Applicant which market conditions are likely to affect all mortgage certificates of similar payment terms and maturities in a similar fashion; and (b) the interests of the Applicant are not likely to be greatly different from those of the Bondholders with respect to collateral prepayment experience.

Applicant's Legal Conclusions

The requested order is necessary and appropriate in the public interest because: (a) The Applicant should not be deemed to be an entity to which the provisions of the 1940 Act were intended to be applied; (b) the Applicant may be unable to proceed with its proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (c) the Applicant's activities are intended to serve a recognized and critical public need; and (d) granting of the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the 1933 Act and thereafter by the Indenture Trustee representing their interests under the Indenture.

Applicant's Conditions

Applicant agrees that if an order is granted it will be expressly conditioned on the following conditions:

A. Conditions relating to the Bonds.

1. Each Series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to Section 4(2) thereof.

2. The Bonds will be "mortgage-related" securities" within the meaning of Section 3(a)(41) of the Securities Exchange Act of 1934. In addition, the mortgage collateral underlying the Bonds will be limited to GNMA Certificates, FNMA Certificates, FHLMC Certificates or Private Certificates.

3. If new Mortgage Certificates are substituted, the substitute certificates will: (i) Be of equal or better quality than the collateral replaced; (ii) have similar payment terms and cash flow as the collateral replaced; (iii) be insured or guaranteed to the same extent as the collateral replaced; and (iv) meet the conditions set forth in paragraphs (2), (4) and (6). In addition, new collateral may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as collateral. In no event may any new Mortgage Certificate collateral be substituted for any substitute Mortgage

Certificate collateral. New Private Certificates may be substituted for Private Certificates initially pledged as Mortgage Collateral only in the event of default, late payment or defect in the Mortgage Collateral being replaced.

4. All Mortgage Certificates, funds, accounts or other collateral securing a series of Bonds will be held by the Indenture Trustee, or on behalf of the Indenture Trustee by an independent custodian. Neither the custodian nor the Indenture Trustee will be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicant or of the master servicer of originating lender of any mortgages underlying the Motgage Certificates. The Indenture Trustee will be provided with a first priortiy perfected security or lien interest in and to all collateral securing each series of Bonds.

5. Each series of Bonds will be rated in the highest bond rating category by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant. The Bonds will not be considered "redeemable securities" with the meaning of Section 2(a)(32) of the 1940 Act.

6. The master servicer of any mortgages underlying Private Certificates that are pledged as mortgage collateral may not be an affiliate of the Indenture Trustee. If there is no master servicer, no servicer of such mortages may be an affiliate of the Indenture Trustee. The master servicer and servicer of such mortgages will be approved by FNMA or FHLMC as an "eligible seller/servicer" of conventional, residential mortgage loans. The agreement governing the servicing of such mortgages shall obligate the servicer to provide substantially the same services with respect to those mortgages as it is then currently required to provide in connection with the servicing of mortgage loans insured by FHA, guaranteed by VA or eligible for purchase by FNMA or FHLMC.

7. No less often than annually, an independent public accountant will audit the books and records of the Applicant and, in addition, will report on whether the anticipated payments of principal and interest on the Mortgage Certificate collateral continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Indenture Trustee.

B. Additional Conditions relating to variable-rate bonds

1. Bonds bearing interest at a variable rate will be subject to maximum interest rates ("interest rate caps") or to minimum interest rates in the case of inverse variable rate Bonds. The maximum and minimum interest rates for a series of Bonds may vary from period to period, and always will be specified in the related prospectus supplement.

2. The cash flow generated by the related Mortgage Certificates securing the Bonds (together with other collateral) plus income received thereon at the assumed reinvestment rate specified in the related prospectus supplement will be sufficient to provide for the full and timely payment of the Bonds of such series (even if the interest rates on variable rate Bonds were the maximum applicable interest rates for each specified period).[1]

3. No Mortgage Certificates may be released from the lien of the Indenture prior to retirement in full of all Bonds of any series except to the extent permitted by the limited right to substitute collateral as described herein.

C. Conditions relating to REMICs

1. Any pool of collateral subject to an election to be treated as a REMIC will provide for the payment of administrative fees and expenses by one or more of the methods set forth in the application.

2. With respect to each series of Bonds, Applicant will ensure that the anticipated level of fees and expenses will be more than adequately provided for, regardless of the method which is selected to provide for the payment of such fees and expenses.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-29781 Filed 12-28-87; 8:45 am]

BILLING CODE 8010-01-M

[1] In the case of a series of Bonds that contains a class or classes of adjustable or floating rate Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to the adjustable or floating rate Bonds. Procedures that have been identified to date for achieving this result include the use of (i) interest rate caps for the adjustable or floating rate Bonds; (ii) "inverse" floating rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" floating rate Bonds); (iii) floating rate collateral (such as adjustable rate GNMA Certificates) to secure the Bonds; (iv) interest rate swap agreements (under which the issuer of the Bond would make periodic payments to the counterparty at a fixed rate of interest based on a stated principal amount such as the principal amount of Bonds in the floating rate class, in exchange for receiving corresponding periodic payments from the counter-party at a floating rate of interest based on the same principal amount) and (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the floating rate class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the staff of the Division of Investment Management (the "Staff") notice by letter of any such additional mechanisms before they are utilized, in order to give the Staff an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and will be adequate to meet the standards required for a rating of the Bonds in one of the two highest bond rating categories, and no Bonds will be issued for which this is not the case.

DEPARTMENT OF STATE

Bureau of Public Affairs

[Public Notice 1043]

Guidelines for Access to Records of United Nations War Crimes Commission (UNWCC)

The Department of State will apply the following guidelines in considering for transmission to the United Nations applications for access to certain records of the UNWCC by United States nationals and permanent residents engaged in bona fide research into the history and work of the UNWCC and into war crimes:

1. United States nationals and permanent residents seeking access to UNWCC records may obtain application forms from either the United Nations Archives or from the Office of the Historian, Bureau of Public Affairs, Department of State. These forms require applicants to undertake to observe the terms on which access is granted, and provide that payment of fees, as from time to time established by the United Nations, will be required to cover the administrative costs and services involved.

2. Completed application forms must be submitted to the Office of the Historian, Bureau of Public Affairs, Department of State at the address listed below.

3. Each application form must be accompanied by an appropriate introduction from an institution of higher learning or research or from a relevant professional society.

DATES: This notice is effective as of December 17, 1987.

ADDRESSES: To obtain application forms, contact either:

United Nations Archives, 345 Park Avenue South, 12th Floor, New York, NY 10010; Tel. No. (212) 963-8683

or

Office of the Historian (PA/HO), Bureau of Public Affairs, Department of State, Washington, DC 20520, Tel. No. (202) 663-1122

Submit completed application forms and accompanying letters of introduction to: Office of the Historian (PA/HO), Bureau fo Public Affairs, Department of State, Washington, DC 20520, Tel. No. (202) 663-1122.

FOR FURTHER INFORMATION CONTACT: Neal H. Petersen or David H. Herschler of the Office of the Historian.

Date: December 17, 1987.

Neal H. Petersen,

Deputy Records Historian.

[FR Doc. 87-29686 Filed 12-28-87; 8:45 am]

BILLING CODE 4710-11-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. IRA-42]

California Department of Motor Vehicles Application for Inconsistency Ruling

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Extension of comment period.

SUMMARY: On November 16, 1987, the Research and Special Programs Administration (RSPA) published a Public Notice and Invitation to Comment (52 FR 43830) concerning an application of the California Department of Motor Vehicle (DMV) for an inconsistency ruling under the Hazardous Materials Transportation Act (HMTA). RSPA is extending the period for comments and rebuttal comments on that application.

DATES: Comments received on or before February 29, 1988, and rebuttal comments received on or before April 18, 1988, will be considered before an administrative ruling is issued by the Director of the Office of Hazardous Materials Transportation. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and any comment received may be reviewed in the Docket Unit, Research and Special Programs Administration, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC 20590. Comments and rebuttal comments on the application may be submitted to the Dockets Unit at the above address, and should include the Docket Number, IRA-42. Three copies are requested. A copy of each comment and rebuttal comment must also be sent to Mr. A.A. Pierce, Director, California Department of Motor Vehicles, P.O. Box 932328, Sacramento, CA 94232-3280, and that fact certified to at the time comment is submitted to the Dockets Unit. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Mr. Pierce at the address specified in the **Federal Register**.")

FOR FURTHER INFORMATION CONTACT: Edward H. Bonekemper III, Office of the Chief Counsel, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590, telephone 202-366-4401.

SUPPLEMENTARY INFORMATION: The Public Notice and Invitation to Comment, on the consistency of California's DMV's regulations on training requirements for operators of vehicles carrying hazardous materials, established a comment period ending December 31, 1987, and a rebuttal comment period ending February 19, 1988.

On December 11, 1987, RSPA received a December 10, 1987, letter from Clifford H. Harvison, President of the National Tank Truck Carriers, Inc. (NTTC), requesting an extension of the comment period. That letter, in part, stated:

> The Administrator has established December 31, 1987, as the deadline for filing comments. Most recently, however, the Department's Office of Motor Carriers, Federal Highway Administration, has announced that final rules regarding driver licensing qualification and testing standards will be published on or about December 15, 1987.
>
> NTTC believes that it is reasonable to anticipate that many of FHWA's "final" rules will impact RSPA's decision-making in IR-42. Simply stated, those of us who intend to file comments will need more time to analyze FHWA's new rules and seek counsel from our membership.
>
> Therefore, please accept this letter as a request to postpone the deadline for filing comments in Application for Inconsistency Ruling (IR-42) from December 31, 1987, to February 29, 1988.

On December 11, 1987, the Federal Highway Administration (FHWA) did publish a proposed regulation concerning "Commercial Driver Testing and Licensing Standards" (52 FR 47326). That FHWA notice contains proposals relating to testing and qualifications of persons who operate or expect to operate a commercial motor vehicle carrying a hazardous material.

However, the FHWA proposed regulations under statutory authority other than the HMTA, and its ultimate promulgation of regulations, if any, under such authority has no direct effect on preemption issues arising under the HMTA.

The FHWA proposals, however, are likely to generate increased interest in the California DMV regulations and the HMTA inconsistency proceeding concerning them.

Therefore, RSPA is granting the NTTC's request for an extension of the comment period in this inconsistency proceeding to February 29, 1988. In addition, the rebuttal comment period is extended to April 18, 1988.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

Issued in Washington, DC on December 22, 1987.

[FR Doc. 87-29737 Filed 12-28-87; 8:45 am]

BILLING CODE 4910-60-M

[Inconsistency Ruling No. IR-22; Docket IRA-40A]

City of New York Regulations Governing Transportation of Hazardous Materials; Correction

AGENCY: Office of Hazardous Materials Transportation (OHMT), Research and Special Programs Administration, DOT.

ACTION: Inconsistency Ruling No. IR-22; correction.

SUMMARY: OHMT is correcting errors in the text of Inconsistency Ruling No. IR-22, concerning City of New York regulations governing transportation of hazardous materials, which was published in the **Federal Register** on December 8, 1987 (52 FR 46574).

FOR FURTHER INFORMATION CONTACT: Edward H. Bonekemper III, Senior Attorney, Office of Chief Counsel, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590 (Tel. (202) 366-4362).

SUPPLEMENTARY INFORMATION: The following corrections are made in Inconsistency Ruling No. IR-22:

1. On page 46574, in the first column, in the paragraph entitled "Ruling:", in the second line, "Protection" should be "Prevention".

2. On page 46575, in the second column, in the first full paragraph, on the seventh line, the word "purpose" should be "purposes".

3. On the same page, same column, in the third full paragraph, in the eighth line from the bottom, a comma should precede "which".

4. On the same page, same column, in the last full paragraph, on the seventh line, the word "*Coating*" should be "*Coatings*".

5. On page 46576, in the second column, in the last full paragraph, on the

seventh line, "pending" should be "pendency".

6. On page 46580, in the first column, in the third full paragraph, on the sixth line, "set" should be "sets".

7. On page 46581, in the second column, in the first paragraph, on the fifth line from the bottom, "states" should be "stated".

8. On page 46582, the second, fifth, seventh and eighth paragraphs should be in large type because they are not parts of quotations.

9. On page 46584, in the third column, on the second line, "Protection" should be "Prevention".

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

Issued in Washington, DC, on December 22, 1987.

[FR Doc. 87-29738 Filed 12-28-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 21, 1987.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0071
Form Number: CF 26
Type of Review: Reinstatement
Title: Report of Diversion

Description: Customs Form 26 is used by vessel owners, masters or agents when requesting a diversion of a vessel or to petition for relief from penalties incurred as a result of an unlawful diversion or both.

Respondents: Businesses or other for-profit
Estimated Burden: 233 hours
Clearance Officer: B. J. Simpson, (202) 566-7529 U.S. Customs Service Room 6426 1301 Constitution Avenue, NW. Washington, DC 20229
OMB Reviewer: Milo Sunderhauf, (202) 395-6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, DC 20503

Dale A Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-29708 Filed 12-28-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 22, 1987.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0046
Form Number: Customs Form 3485
Type of Review: Reinstatement
Title: Lien Notice

Description: The lien notice is used by carriers, cartmen, and similar businesses to enable them to notify Customs that a lien exists against an individual/business for non-payment of freight, charges, etc., so that Customs will not permit delivery of the merchandise from public stores or a bonded warehouse until the lien is satisfied or discharged.

Respondents: Businesses or other for-profit
Estimated Burden: 8,497 hours
Clearance Officer: B. J. Simpson, (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-29709 Filed 12-28-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 22, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 8689
Type of Review: Resubmission
Title: Allocation of Individual Income Tax to the Virgin Islands

Description: Form 8689 is used by U.S. citizens or residents as an attachment to Form 1116 when they have Virgin Islands source income. The data is used by IRS to verify the amount claimed on Form 1116 for taxes paid to the Virgin Islands.

Respondents: Businesses or other for-profit
Estimated Burden: 148,349 hours

OMB Number: 1545-1002
Form Number: 8621
Type of Review: Resubmission
Title: Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund

Description: Form 8621 is used by shareholders of foreign investment companies. Shareholders of passive investment companies use Form 8621 to report distributions from the fund, and a deferred tax amount when an excess distribution is made. Shareholders of qualified electing funds are taxed on current income from the fund. The IRS used Form 8621 to verify that shareholders have included the correct amount of income from these entities.

Respondents: Individuals or households, Businesses or other for-profit
Estimated Burden: 13,924 hours
Clearance Officer: Garrick Shear, (202) 535-4297 Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW. Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-29710 Filed 12-28-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 22, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0122
Form Number: 1118 and Schedules F and G
Type of Review: Revision
Title: Computation of Foreign Tax Credit—Corporations

Description: Schedule G (Form 1118) is used by corporations to show how they allocated a loss in a category of foreign income over other categories of foreign income. The form is also used to show the beginning balance, adjustments, and ending balance of the overall foreign losses for each separate limitation. The IRS uses this information to ensure that taxpayers are allocating these losses correctly.

Respondents: Businesses or other for-profit, small businesses or organizations
Estimated Burden: 181,986 hours
Clearance Officer: Garrick Shear, (202) 535–4297 Internal Revenue Service Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
Clearance Officer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,
Departmental Reports Management Officer.
[FR Doc. 87–29711 Filed 12–28–87; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 21, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub.L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Office, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 8611
Type of Review: New Collection
Title: Recapture of Low-Income Housing Credit

Description: Internal Revenue Code section 42 permits owners of residential rental projects providing low-income housing to claim a credit against their income tax. If the property is disposed of or it fails to meet certain requirements over a 15-year compliance period, the owner must recapture on Form 8611 part of the credit(s) taken in prior years.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 397 hours
OMB Number: 1545–0146
Form Number: 2553
Type of Review: Revision
Title: Election by a Small Business Corporation

Description: Filed by a qualifying corporation to elect to be an S corporation as defined in Code section 1361. The information obtained is necessary to determine if the election should be accepted by IRS. When the election is accepted, the qualifying corporation is classified as an S corporation and the corporation's income is taxed to the shareholders of the corporation.

Respondents: Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 50,629 hours
Clearance Officer: Garrick Shear, (202) 535–4297 Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
Clearance Officer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,
Departmental Reports Management Officer.
[FR Doc. 87–29712 Filed 12–28–87; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 249
Tuesday, December 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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Thursday, December 17, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting to be held at 2:30 p.m. the same day, on less than seven days' notice to the public, of the application of Beverly Bank, Chicago, Illinois, for consent to establish a facility at 10312 South Cicero Avenue, Oak Lawn, Illinois.

By the same majority vote, the Board also determined that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Chaves Industrial Bank, an operating noninsured industrial bank located at 501 Lincoln Street, Denver, Colorado, for Federal deposit insurance.

Memorandum and resolution regarding contracts for the FDIC loose-leaf reporting service and its index.

By the same majority vote, the Board also determined that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,152-NR Franklin National Bank, New York, New York.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter moved from open session to closed session in a meeting open to public observation; and that the matter moved from open session to closed session could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: December 21, 1987.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 87-29822 Filed 12-24-87; 10:09 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Thursday, December 17, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Requests for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

Memorandum regarding an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further detemined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation: and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 21, 1987.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 87-29823 Filed 12-24-87; 10:09 am]

BILLING CODE 6714-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, January 4, 1988.

PLACE: Marriner S. eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

Matters to be Considered:

1. 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.

James McAfee,

Associate Secretary of the Board.

Date: December 24, 1987.

[FR Doc. 87-29856 Filed 12-24-87; 10:54 am]

BILLING CODE 6210-01-M

Federal Register

Tuesday
December 29, 1987

Part II

Department of the Interior

Bureau of Land Management

43 CFR Parts 2920 and 9260

Leases, Permits and Easements and Criminal Law Enforcement; Amendment To Provide Procedures for Action for Unauthorized Use of the Public Lands; Final Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-320-08-4212-02; Circular No. 2603]

43 CFR Parts 2920 and 9260

Leases, Permits and Easements and Criminal Law Enforcement; Amendment To Provide Procedures for Action for Unauthorized Use of the Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking provides procedures for dealing with authorized use of the public lands for agricultural, industrial, residential, or commercial purposes where the user has not obtained a lease, license, or easement authorizing such use. These procedures will protect the public lands and their resources from unauthorized use, which deprives the United States of a fair return for the use of its lands.

EFFECTIVE DATE: January 28, 1988.

ADDRESS: Any inquiries or suggestions should be sent to: Director (320) Bureau of Land Management Room 3643, Main Interior Bldg. 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ralph Conrad, (202) 343-8693.

SUPPLEMENTARY INFORMATION: A proposed rulemaking amending 43 CFR Parts 2920 and 9260 was published in the **Federal Register** on July 27, 1987 (52 FR 28024), with a 30-day comment period. During the comment period, comments were received from 10 sources, seven from Federal agencies, two from law firms, and one from an association.

The comments were not negative, but raised specific questions concerning the proposed rulemaking. As an example, one comment expressed a view that the rulemaking should not diminish individual rights. The proposed rulemaking was aimed at controlling unauthorized uses of the public lands and, therefore, does not infringe on legitimate uses of the public lands.

Another comment suggested that the final rulemaking amend the proposed rulemaking to make it clear that persons cited for civil penalties under the provisions of the rulemakings have the right to appeal that citation under 43 CFR Part 4. The right of appeal of a decision by an official of the Bureau of Land Management is available to any adversely affected party, including a person determined to have made an authorized use of the public lands. However, in order to clarify this point, the final rulemaking has adopted a provision setting forth this right of appeal. This same comment also suggested that the final rulemaking contain language differentiating between civil and criminal penalties. The final rulemaking has been amended to provide this differentiation. This amendment of the final rulemaking also will answer several comments regarding when civil or criminal penalties would be applicable.

One of the comments recommended that the final rulemaking include definitions of the terms "occupancy," "resources," and "nuisance." This recommended change would have the effect of broadening the scope of the rulemaking beyond those uses which are currently authorized under 43 CFR Part 2920 by including littering, resource destruction, etc., as violations that will be subject to penalty under the provisions of this final rulemaking. The recommendation has not been adopted because it would broaden the scope of the final rulemaking beyond the uses authorized by 43 CFR Part 2920.

One comment recommended that the final rulemaking amend the proposed rulemaking to provide for injunctions against unauthorized use, occupancy, or development of the public lands. Both the proposed and final rulemakings cite section 303 of the Federal Land Policy and Management Act as authority. Section 303 authorizes the use of an injunction proceeding in connection with unauthorized use of the public lands. Therefore, this process is already available to the authorized officer who deems its use appropriate. This recommendation has not been adopted by the final rulemaking.

One comment suggested that the final rulemaking amend the proposed rulemaking to allow the waiver of damages and administrative costs in those situations where the unauthorized user either vacates the public lands or accepts a land use authorization under the provisions of 43 CFR Part 2920. The Department of the Interior must comply with the provisions of the Federal Claims Collection Act in waiving or compromising debts owed the United States. Therefore, this suggested change cannot be adopted by the final rulemaking because the basis for waiving or compromising a claim resulting from an unauthorized use is set by the Federal Claims Collection Act.

Three comments raised questions about the use of the phrase "not timely resolved," in the proposed rulemaking and it was suggested that the phrase be defined for clarity. The final rulemaking has not adopted the suggestion that the phrase "not timely resolved" be defined. The phrase is used in an effort to give the Bureau of Land Management official responsible for dealing with an unauthorized use the broadest possible discretion in resolving that unauthorized use on a fair and equitable basis. The ultimate decision on whether or not an unauthorized use has been resolved in a timely manner will lie with the appropriate State Director.

Two comments on the proposed rulemaking suggested that damages be substituted for fair market value rental by the final rulemaking. The comments felt that the process under which fair market rental is established after the deduction of credits for water, insurance, fertilizer, seed, and other costs does not give the United States an adequate return for the use of the public lands. The comments made the point that in their opinion the use of fair market value rental as the standard for payment deprives the United States, an unwilling landlord, of adequate compensation for the use of the public lands. Fair market value rental is determined pursuant to established appraisal procedures, whereas damages are non-definitive and open to broad interpretation. The final rulemaking has not adopted this suggestion and action will be taken after this final rulemaking becomes effective to standardize the appraisal methods that are used to determine fair market value rental, thereby providing the United States with adequate reimbursement for the unauthorized use of the public lands.

One comment suggested that the penalty provisions of the proposed rulemaking should be expanded by the final rulemaking to permit termination of any Bureau of Land Management authorization that is discretionary when it has been determined that there has been an unauthorized use of the public lands. This suggestion has not been adopted by the final rulemaking because of the view of the Bureau that the proposed and final rulemakings provide sufficient deterrence.

One of the comments suggested that Federal-private landownership patterns and the topography of the lands frequently lead to use of the public lands either out of necessity or as a convenience. This comment went on to suggest that the Bureau of Land Management not be "hard-nosed" in its pursuit of these types of unauthorized uses of the public lands. The Bureau is aware of the problems presented in the comment and will endeavor to work out administrative solutions that are appropriate to the circumstances.

The provisions of this final rulemaking are applicable only to activities

authorized under 43 CFR Part 2920 and have no impact on other activities, e.g., grazing trepass, mineral trespass, timber trespass.

The principal author of this final rulemaking is Ralph Conrad, Division of Lands, Bureau of Land Management, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The rulemaking provides procedures for use by the Bureau of Land Management in carrying out its responsibility to protect the public lands and their resources from unauthorized use. The procedures are equally applicable to all entities, regardless of size, found to be making an unauthorized use of the public lands and their resources.

There are no new information collection requirements in this final rulemaking that require the approval of the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects

43 CFR Part 2920

Public lands, Reporting and recordkeeping requirements.

43 CFR Part 9260

Continental shelf, Forest and forests products, Law enforcement, Penalties, Public lands, Range management, Recreation and recreation areas, Wildlife.

Under the authority of sections 302, 303, and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, 1740), Part 2920, Group 2900, Subchapter B, and Part 9260, Group 9200, Subchapter I, both of Chapter II of the Code of Federal Regulations, are amended as set forth below.

November 10, 1987.

J. Steven Griles,

Assistant Secretary of the Interior.

PART 2920—[AMENDED]

1. The authority citation for Part 2920 is revised to read:

Authority: 43 U.S.C. 1732, 1733 and 1740.

2. Section 2920.0–3 is revised to read:

§ 2920.0–3 Authority.

Sections 302, 303 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, 1740) authorize the Secretary of the Interior to issue regulations providing for the use, occupancy, and development of the public lands through leases, permits, and easements.

3. Section 2920.0–5 is amended by adding a new paragraph (m) to read:

§ 2920.0–5 Definitions.

* * * * *

(m) "Knowing and willful" means that a violation is "knowingly and willfully" committed if it constitutes the voluntary or conscious performance of an act which is prohibited or the voluntary or conscious failure to perform an act or duty that is required. The terms does not include performances or failures to perform which are honest mistakes or which are merely inadvertent. The term includes, but does not require, performances or failures to perform which result from a criminal or evil intent or from a specific intent to violate the law. The knowing or willful nature of conduct may be established by plain indifference to or reckless disregard of the requirements of law, regulations, orders, or terms of a lease. A consistent pattern of performance or failure to perform also may be sufficient to establish the knowing or willful nature of the conduct, where such consistent pattern is neither the result of honest mistake or mere inadvertency. Conduct which is otherwise regarded as being knowing or willful is rendered neither accidental nor mitigated in character by the belief that the conduct is reasonable or legal.

4. Section 2920.1 is revised and §§ 2920.1–1 and 2920.1–2 are added to read:

§ 2920.1 Uses.

§ 2920.1–1 Authorized use.

Any use not specifically authorized under other laws or regulations and not specifically forbidden by law may be authorized under this Part. Uses which may be authorized include residential, agricultural, industrial, and commercial, and uses that cannot be authorized under title V of the Federal Land Policy and Management Act or section 28 of the Mineral Leasing Act. Land use authorizations shall be granted under the following categories:

(a) Leases shall be used to authorize uses of public lands involving substantial construction, development, or land improvement and the investment of large amounts of capital which are to be amortized over time. A lease conveys a possessory interest and is revocable only in accordance with its terms and the provisions of § 2920.9–3 of this title. Leases shall be issued for a term, determined by the authorized officer, that is consistent with the time required to amortize the capital investment.

(b) Permits shall be used to authorize uses of public lands for not to exceed 3 years that involve either little or no land improvement, construction, or investment, or investment which can be amortized within the term of the permit. A permit conveys no possessory interest. The permit is renewable at the discretion of the authorized officer and may be revoked in accordance with its terms and the provisions of § 2920.9–3 of this title. Permits shall be issued on a form approved by the Director, Bureau of Land Management, that has been filed by the applicant with the appropriate Bureau of Land Management office.

(c) Easements may be used to assure that uses of public lands are compatible with non-Federal uses occurring on adjacent or nearby land. The term of the easement shall be determined by the authorized officer. An easement granted under this Part may be issued only for purposes not authorized under title V of the Federal Land Policy and Management Act or section 28 of the Mineral Leasing Act.

(d) No land use authorization is required under the regulations in this Part for casual use of the public lands.

§ 2920.1–2 Unauthorized use.

(a) Any use, occupancy, or development of the public lands, other than casual use as defined in § 2920.0–5(k) of this title, without authorization under the procedures in § 2920.1–1 of this title, shall be considered a trespass. Anyone determined by the authorized officer to be in trespass on the public lands shall be notified of such trespass and shall be liable to the United States for:

(1) The administrative costs incurred by the United States as a consequence of such trespass; and

(2) The fair market value rental of the lands for the current year and past years of trespass; and

(3) Rehabilitating and stabilizing the lands that were the subject of such trespass, or if the person determined to be in trespass does not rehabilitate and stabilize the lands determined to be in trespass within the period set by the authorized officer in the notice, he/she shall be liable for the costs incurred by the United States in rehabilitating and stabilizing such lands.

(b) In addition, the following penalties may be assessed by the authorized officer for a trespass not timely resolved under paragraph (a) of this section and where the trespass is determined to be:

(1) Nonwillful, twice the fair market rental value which has accrued since the inception of the trespass, not to exceed a total of 6 years; or

(2) Knowing and willful, three times the fair market rental value which has accrued since the inception of the trespass, not to exceed a total of 6 years.

(c) For any person found to be in trespass on the public lands under this section, the authorized officer may take action under § 2920.9-3 of this title to terminate, revoke, or cancel any land use authorization issued to such person under this Part.

(d) Failure to satisfy the liability and penalty requirements imposed under this section for unauthorized use of the public lands may result in denial of:

(1) A use authorization under this Part; and

(2) A request to purchase or exchange public lands filed under Subparts 2711 and 2201 of this title.

(e) Any person who knowingly and willfully violates the regulations in this Part by using the public lands without the authorization required by this part, in addition to the civil penalties provided for in this part, may be subject to a fine of not more than $1,000 or imprisonment of not more than 12 months, or both under Subpart 9262 of this title.

(f) Any person adversely affected by a decision issued under this section, may appeal that decision under the provisions of Part 4 of this Title.

PART 9260—[AMENDED]

5. The authority citation for Part 9260 continues to read:

Authority: 16 U.S.C. 433; 16 U.S.C. 460 1-6a; 16 U.S.C. 670 g-n; 16 U.S.C. 1241-1249; 16 U.S.C. 1331 et seq.; 18 U.S.C. 3410; 18 U.S.C. 1851-1853; 43 U.S.C. 315 et seq.; 43 U.S.C. 315(a); 43 U.S.C. 315(c); 43 U.S.C. 1061-1064; 43 U.S.C. 1334; 43 U.S.C. 1701 et seq.; 43 U.S.C. 1733.

6. Part 9260 is amended by adding Subpart 9262 to read:

Subpart 9262—Land Resource Management

§ 9262.0-3 Authority.

The provisions of this subpart are issued under sections 302, 303 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, 1740).

§ 9262.1 Penalties for unauthorized use of public lands.

Any person who knowingly and willfully violates the regulations in Part 2920 of this title by using the public lands without the authorization required by that part may be required to appear before a designated United States magistrate and may be subject to a fine of not more than $1,000 or imprisonment of not more than 12 months, or both.

(43 CFR 2920.1-2)

[FR Doc. 87-29700 Filed 12-28-87; 8:45 am]

BILLING CODE 4310-84-M

federal register

Monday
December 29, 1987

Part III

The President

Memorandum for the Counsel to the President

Counsel to the President

Waiver Under 18 U.S.C. 208(b)(2) for Members of the Presidential Task Force on Market Mechanisms

Presidential Documents

Memorandum of December 23, 1987

Waiver Under 18 U.S.C. §208(b)(2) for Members of the Presidential Task Force on Market Mechanisms

Memorandum for the Counsel to the President

By Executive Order 12614 on November 5, 1987, I established the Presidential Task Force on Market Mechanisms in order to obtain knowledgeable analysis and recommendations concerning the current and long-term financial condition of the nation's securities markets. In order to obtain the specialized expertise in the several technical aspects of the securities markets that is necessary to the Task Force's central purpose, and to enable the Task Force to conclude their report within a very short period of time, I selected persons for the Task Force from among working professionals who deal with these markets on a daily basis. For the same reason, it was my intention that the Task Force members would themselves select staff personnel who are familiar with the intricacies of the financial markets and who are involved with the markets on an ongoing basis, either through their own financial dealings or those of organizations with which they are affiliated.

In order to permit members of the Task Force and its staff to carry out their functions, there is hereby delegated to you the authority of the President under section 208(b)(2) of Title 18, United States Code, to publish in the **Federal Register** a general exemptive rule applicable to members of the Task Force and its staff, and to do so without approval, ratification, or other action by the President.

Ronald Reagan

The White House,
Washington, December 23, 1987.

[FR Doc. 87-29803
Filed 12-24-87; 9:00 am]
Billing code 3195-01-M

Counsel to the President

Waiver Under 18 U.S.C. § 208(b)(2) for Members of the Presidential Task Force on Market Mechanisms

This general rule is issued pursuant to the authority in Title 18, United States Code, section 208(b)(2).

Section 208(a) of Title 18 prohibits officers and employees of the Executive branch who have financial interests that could be affected by their official acts from participating in any "judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter" through, among other means, "the rendering of advice." Certain legal interpretations of section 208(a) include as "particular matters" to be avoided general policy recommendations which, if implemented, could have very broad impact on economic interests.

Subsection (b)(2) of section 208 provides a standard for determining when it is appropriate to issue an exemptive general rule or regulation waiving financial interests from the coverage of section 208(a). According to this standard, a general waiver may be granted whenever the financial interests of officers or employees are too remote or too inconsequential to "affect the integrity of [their] services."

The President created the Presidential Task Force on Market Mechanisms by Executive Order 12614 on November 5, 1987, in order to obtain knowledgeable analysis and recommendations concerning the current and long-term financial condition of the nation's securities markets. Section 2 of the Executive Order provides that the Task Force shall review relevant analyses of the current and long-term financial condition of the markets; identify problems that may threaten the short-term liquidity or long-term solvency of the markets; analyze potential solutions to such problems; and provide appropriate recommendations to the President, to the Secretary of the Treasury, and to the Chairman of the Board of Governors of the Federal Reserve System.

In order to provide the specialized expertise in the several technical aspects of the securities markets that was necessary to the Task Force's central purpose, and particularly because the President wished the Task Force members to conclude their report within a very short period of time, the President selected persons for the Task Force from among working professionals who deal with these markets on a daily basis. For the same reason, the President contemplated that the Task Force members would themselves select staff personnel who are familiar with the intricacies of the financial markets and who are involved with the markets on an ongoing basis, either through their own financial dealings or those of organizations with which they are affiliated. Pursuant to the direction of the President, members of the Task Force and its staff include representatives of investment banks and securities brokers/dealers; investment portfolio managers; mutual fund managers; corporate issuers; commodity futures trading participants; members of corporate boards of directors and management, and consultants thereto; and business academic institutions.

By virtue of their backgrounds, current positions, and in some cases, financial holdings, it is therefore conceivable that actions that each of the members of the Task Force and its staff may take in particular matters could be deemed to be actions by officers or employees of the Executive branch that have a direct and predictable effect on financial interests they possess.

Because the Executive Order requires the Task Force to analyze and provide recommendations concerning the overall condition of the nation's securities markets, rather than concerning particular financial interests of individuals that may be indirectly affected by the general condition or performance of such markets, and in view of the necessity of staffing the Task Force with persons intimately familiar with the day-to-day functioning of various aspects of the markets, it is hereby established by general rule that the financial interests of each member of the Task Force and its staff, and of any organization with which such a member may be affiliated, are too remote or too inconsequential to affect the integrity of the services of such persons to the Task Force. The provisions of subsection (a) of section 208 shall not, therefore, apply to any such financial interests of such persons or their spouses, minor children, partners, or organizations in which they are serving as officers, directors, trustees, partners, or employees.

This waiver is granted in light of the purpose and functions of the Task Force set forth in the Executive Order, with the expectation that the Task Force report will not include specific recommendations that would particularly rather than generally affect a financial interest of members of the Task Force or its staff. However, should the Task Force consider recommendations directed specifically to a particular organization in which a member of the Task Force or its staff is serving as an officer, director, trustee, partner, or employee, or in which such person or his or her spouse, minor child, or partner has a direct financial interest, then such member shall not act in the matter.

Arthur B. Culvahouse, Jr.,

Counsel to the President.

[FR Doc. 87-29796 Filed 12-24-87; 8:45 am]

BILLING CODE 3195-01-M

federal register

Tuesday
December 29, 1987

Part IV

Department of Education

34 CFR Part 671

Foreign Periodicals Program; Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 671

Foreign Periodicals Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations to govern the Foreign Periodicals Program. These proposed regulations would be needed to implement additions to Title VI of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Amendments of 1986, Pub. L. 99-498, in the event funds are appropriated. The proposed regulations provide the framework for strengthening specialized library collections dealing with foreign languages, area studies, and world affairs.

DATED: Comments must be received on or before February 12, 1988.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Joseph F. Belmonte, Center for International Education, U.S. Department of Education, 400 Maryland Avenue SW. (Room 3054, ROB-3), Washington, DC 20202.

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

FOR FURTHER INFORMATION CONTACT: Joseph F. Belmonte: Telephone (202) 732-3304.

SUPPLEMENTARY INFORMATION: Under the Foreign Periodicals Program, the Secretary awards grants to institutions of higher education, public or nonprofit private library institutions, or consortia of these institutions. To receive a grant, an applicant must have an established library with strengths in specific geographic world areas or in particular fields or issues in world affairs that concern one or more countries, and the applicant must demonstrate a commitment to share the resources of its collection.

Grant funds may be used: (1) To acquire periodicals published outside the United States which are not commonly held by American academic libraries and which are of scholarly or research importance, (2) to preserve those periodicals, (3) to make those periodicals available to researchers and scholars, and (4) to maintain bibliographic information on periodicals acquired in machine-readable form and to enter that information into one or more of the widely available bibliographic data bases.

At this time no funds have been appropriated for the activities and none have been requested by the Department.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Respondents to this program are major higher education institutions with enrollments of well over 500 and major specialized libraries. They are not defined as small entities.

Paperwork Reduction Act of 1980

Sections 671.10 and 671.21 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget for its review.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Jim Houser.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period, in Room 3054, Regional Office Building No. 3, 7th and D Streets SW., Washington, DC 20202, between the hours of 8:30 a.m. and 4:00 p.m., Monday throught Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 671

Colleges and universities, Education, Grant program, Libraries, Reporting and recordkeeping requirements, Research.

Dated: November 16, 1987.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number has not been assigned)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new Part 671 to read as follows:

PART 671—FOREIGN PERIODICALS PROGRAM

Subpart A—General

Sec.
671.1 What is the Foreign Periodicals Program?
671.2 Who is eligible for an award?
671.3 What activities may the Secretary fund?
671.4 What regulations apply?
671.5 What definitions apply?

Subpart B—How Does the Secretary Make an Award?

671.10 How does the Secretary evaluate an application?
671.11 What selection criteria does the Secretary use?
671.12 What priorities may be Secretary establish?

Subpart C—What Conditions Must Be Met by a Grantee?

671.20 What costs are allowable?
671.21 What are the limitations on allowable costs?

Authority: 20 U.S.C. 1125a, unless otherwise noted.

Subpart A—General

§ 671.1 What is the Foreign Periodicals Program?

Under the Foreign Periodicals Program, the Secretary awards grants to selected institutions of higher education, public or nonprofit private library institutions, or consortia of these institutions for the purpose of—

(a) Acquiring periodicals published outside the United states that are not commonly held by American academic libraries and that are of scholarly or research importance;

(c) Making those periodicals available to researchers and scholars; and

(d) Maintaining bibliographic information on periodicals acquired in machine-readable form and entering

that information into one or more of the widely available bibliographic data bases.

(Authority: 20 U.S.C. 1125a)

§ 671.2 Who is eligible for an award?

An institution of higher education, a public or nonprofit private library institution, or a consortium of these institutions is eligible to receive a grant under this part if the institution or consortium—

(a) Has an established library with strengths in either—

(1) Specific geographic world areas; or

(2) Particular fields or issues in world affairs that concern one or more countries; and

(b) Demonstrates a commitment to share the resources of its library collection with researchers and scholars.

(Authority: 20 U.S.C. 1125a)

§ 671.3 What activities may the Secretary fund?

Grants awarded under this part may be used to—

(a) Acquire periodicals produced and published outside the United States that are not commonly held by American academic libraries and that are of scholarly or research importance;

(b) Preserve the periodicals described in paragraph (a) of this section;

(c) Make the periodicals described in paragraph (a) of this section available to researchers and scholars; and

(d) Maintain bibliographic information on periodicals acquired in machine-readable form and to enter that information into one or more of the widely avaiable bibliographic data bases.

(Authority: 20 U.S.C. 1125a)

§ 671.4 What regulations apply?

The following regulations apply to the Foreign Periodicals Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), 34 CFR Part 75 (Direct Grant Programs), 34 CFR Part 77 (Definitions That Apply To Department Regulations), and 34 CFR Part 78 (Education Appeal Board).

(b) 34 CFR Part 655.

(c) The regulations in this part 671.

(Authority: 20 U.S.C. 1125a)

§ 671.5 What definitions apply?

The following definitions apply to this part:

(a) The definitions is 34 CFR 655.4.

(b) "Foreign periodical" means a periodical published outside the United States.

(Authority: 20 U.S.C. 1125a)

Subpart B—How Does the Secretary Make an Award?

§ 671.10 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application under this part under the criteria in § 671.11.

(b) The Secretary awards up to 100 possible points for the criteria contained in § 671.11.

(c) The Secretary may award up to 20 additional points under the priority criterion in § 671.11(i).

(d) The maximum possible points for each criterion are indicated in parentheses after the heading for the criterion.

(Authority: 20 U.S.C. 1125a)

§ 671.11 What selection criteria does the Secretary use?

The Secretary uses the following criteria in evaluating applications under this part:

(a) *Plan of operation.* (15) (See 34 CFR 655.31(a)).

(b) *Quality of key personnel.* (1) (See 34 CFR 655.31(b)).

(c) *Budget and cost-effectiveness.* (5) (See 34 CFR 655.31(c)).

(d) *Evaluation plan.* (5) (See 34 CFR 655.31(d)).

(e) *Adequacy of resources.* (10) (See 34 CFR 655.31(e)).

(f) *Commitment to the subject area on which the project focuses.* (25) The Secretary reviews each application to determine—

(1) The strength of the institution's library in the area on which the project focuses; and

(2) The extent to which the institution provides financial and other support to the project, adequate staffing, and services for researchers and scholars in fields related to the project.

(g) *Need and potential impact.* (15) The Secretary reviews each application to determine—

(1) The extent to which the proposed activities serve national needs;

(2) The extent to which an improved collection will be available at the applicant institution at the termination of the grant period; and

(3) The potential impact of the proposed project in improving the knowledge of languages, areas, or international studies at the national level.

(h) *Dissemination activities.* (15) The Secretary reviews each application to determine the quality of the services the project would provide to researchers and scholars.

(i) *Degree to which priorities are serviced.* (20) If, under the provisions of § 671.12, the application notice lists specific priorities for this program, the Secretary determines the degree to which those priorities are serviced.

(Authority: 20 U.S.C. 1125a)

§ 671.12 What priorities may the Secretary establish?

(a) The Secretary may each year select as priorities the collection of periodicals dealing with—

(1) Specific countries or geographic regions, such as Mexico, or South Asia; or

(2) Specific fields or issues in world affairs, such as business, energy, environmental affairs, military and security problems, or development issues, or any combination.

(b) The Secretary announces any priorities in the application notice published in the **Federal Register.**

(Authority: 20 U.S.C. 1125a)

Subpart C—What Conditions Must Be Met by a Grantee?

§ 671.20 What costs are allowable?

Grant funds may be used for—

(a) The acquisition of periodicals published outside the United States;

(b) The salaries of staff needed to acquire, process, preserve and circulate these periodicals; and

(c) The purchase of equipment and supplies and the cost of travel to carry out the purposes of this part.

(Authority: 20 U.S.C. 1125a)

§ 671.21 What are the limitations on allowable costs?

(a) Equipment costs exceeding five percent of the grant are not allowable.

(b) Grant funds may not be used to supplant funds normally used by applicants for the purpose of this part.

(Authority: 20 U.S.C. 1125a)

[FR Doc. 87-29792 Filed 12-28-87; 8:45 am]

BILLING CODE 4000-01-M

Federal Register

Tuesday
December 29, 1987

Part V

Office of the United States Trade Representative

Adjustment of Quotas; Tungsten From China; Notice

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Adjustment of Quotas; Tungsten From China

SUMMARY: Pursuant to authority delegated by the President in Proclamation No. 5718 of October 2, 1987, the United States Trade Representative (the USTR) hereby adjusts the quotas specified in the Annex to Proclamation 5718 in accordance with subparagraph (d) of headnote 11 of subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202).

EFFECTIVE DATE: December 29, 1987.

FOR FURTHER INFORMATION CONTACT: Bernard Ascher, (202) 395-4510; John Kingery, (202) 395-6800.

SUPPLEMENTARY INFORMATION: On October 2, 1987, the President proclaimed, under sections 203, 406 and 604 of the Trade Act of 1974, certain measures to implement an Agreement for Orderly Trade in Ammonium Paratungstate and Tungstic Acid Between the Governments of the United States and the People's Republic of China. The Proclamation also states that "the USTR is authorized to make any changes to part 2 of the appendix to the TSUS that may be necessary to carry out the agreement. . . ."

Subparagraph (d) of new headnote 11 to subpart A, part 2 of the Appendix to the Tariff Schedules of the United States, as provided by the Annex to Proclamation 5718, states: "To the extent that imports of the tungsten articles provided for herein exceed 1.7 million pounds tungsten content for calendar year 1987, the specified limits for subsequent periods will be reduced according to the following schedule: the 1988 calendar year specified limit shall be reduced by 50 percent of the excess; the specified limit for the 1989 calendar year period shall be reduced by 30 percent of the excess; and the specified limit of 1990 shall be reduced by 20 percent of the excess."

Imports of the tungsten articles subject to the Agreement and Proclamation consisted of 3,425,093 pounds tungsten content for calendar year 1987. Thus, the amount in excess of 1.7 million pounds tungsten content is 1,725,093 pounds. Accordingly, the Tariff Schedules of the United States are modified to reflect the necessary adjustments as set forth in the Annex hereto.

Statistical corrections are anticipated. As soon as information becomes available to make such corrections, it will be published in a subsequent **Federal Register** notice.

This determination shall be published in the **Federal Register.**

Michael B. Smith,

Deputy U.S. Trade Representative.

Annex

Subpart A of part 2 of the Appendix to the Tariff Schedules of the United States (TSUS) is modified:

(a) By deleting from the title of the column entitled "Specified Limit (in million pounds tungsten content)" the words "in million pounds" and inserting in lieu thereof "in pounds of"; and

(b) By deleting the quantities from that column, and by inserting in lieu thereof the quantities set forth below opposite the enumerated TSUS item numbers:

926.30	425,000
926.31	947,453
926.32	1,422,427
926.33	1,704,981
926.34	1,500,000

[FR Doc. 87-29944 Filed 12-28-87; 11:24 am]

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Reader Aids

Federal Register

Vol. 52, No. 249

Tuesday, December 29, 1987

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

45597-45800 1
45801-45934 2
45935-46050 3
46051-46342 4
46343-46444 7
46445-46584 8
46585-46730 9
46731-46982 10
46983-47364 11
47365-47544 14
47545-47686 15
47687-47890 16
47891-48078 17
48079-48178 18
48179-48390 21
48391-48510 22
48511-48660 23
48661-48792 24
48793-48958 28
48959-49128 29

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5748 46729
5749 46731
5750 46733
5751 46735
5752 ..... 47365, 47545
5754 48959
5755 48961
5756 48963
5757 48965

Executive Orders:
12462 48179
12543 (See Notice of Dec. 15, 1987) 47891
12591 (Amended by 12618) 48661
12616 46730
12617 48179
12618 48661
12619 48663

Administrative Orders:
Notices:
Dec. 15, 1987 47891
Statements:
Dec. 7, 1987 46728

Memorandums:
Dec. 23, 1987 49118

4 CFR

21 46445

5 CFR

351 46051
540 46051
551 47687
831 47893
870 46343
874 46343
1201 47547
1204 45597
1600 45801
1605 46314

Proposed Rules:
302 49023
330 48824
332 48824
333 49023

7 CFR

6 48079
7 48511
8 47660
21 48015
226 48967
301 ..... 45597, 47367, 47688, 48181
319 ..... 46052, 47372
352 ..... 47373, 48905
401 45598-45604
413 47375
422 48182
423 ..... 45805, 47376
431 47376
432 47377
770 45606
907 ..... 46060, 46737, 46983, 48080, 48793
908 46737
910 ..... 46061, 46984, 48080, 48794
911 46344
915 46344
966 46345
981 ..... 45607, 45609
1002 48794
1004 48794
1434 48081
1736 48795
1900 ..... 45806, 46348
1924 ..... 48391, 48799
1942 47097
1944 ..... 45807, 48391
1955 48519
1956 ..... 46348, 47688

Proposed Rules:
52 46486
318 48272
319 49026
401 45830
735 47009
905 46366
959 ..... 46366, 48826
966 47576
971 46366
979 48827
985 46600
987 46366
1403 49028
1951 45638

8 CFR

212 ..... 48082, 48799
214 48082
238 48082
245 48082
248 48082
299 48082
316a 46738

Proposed Rules:
3 46776
109 46092
208 46776
236 46776
242 46776
253 46776

9 CFR

78 47378
85 45935
92 ..... 45611, 47548, 48968
303 48084
381 48084

Proposed Rules:
51 ... 49029
145 ... 47014
147 ... 47014
316 ... 45639
350 ... 45639

10 CFR
30 ... 48092
40 ... 48092
70 ... 48092
1039 ... 48015
Proposed Rules:
Ch. I ... 47398
2 ... 48447
35 ... 47726
61 ... 47398
62 ... 47578
430 ... 46367, 47549
1035 ... 48693
1036 ... 48693

12 CFR
4 ... 46061
204 ... 46450, 47689
208 ... 46984
217 ... 47689
220 ... 48804
226 ... 45611, 48665
265 ... 48804
304 ... 48183
337 ... 47379
574 ... 48519
611 ... 48093
614 ... 46151, 48673
624 ... 48673
706 ... 46585
Proposed Rules:
202 ... 47589
205 ... 47591
210 ... 47112
226 ... 47592, 48702, 48707
229 ... 47112
332 ... 48447
701 ... 46601, 47014

13 CFR
102 ... 47699
125 ... 48391
Proposed Rules:
121 ... 47937

14 CFR
21 ... 46348
25 ... 46348
39 ... 45612–45614, 45808–45810, 46064–46067, 46452, 46739, 46985–46995, 47387, 47551, 47702–47704, 47990, 48184–48187, 48392, 48673, 48805
71 ... 45615, 45616, 46556, 46740–46742, 46995–46997, 47304, 47308, 47676, 48191, 48393, 48522, 48806
75 ... 47677
91 ... 47672
97 ... 45617, 46743, 48394
108 ... 48508
121 ... 45910, 47991
129 ... 48508
135 ... 45910, 47991
234 ... 48395, 48969
255 ... 48395
1208 ... 48015
1213 ... 45935
1221 ... 45811
Proposed Rules:
Ch. I ... 45831
39 ... 45640, 45642, 45831, 46094, 46776, 47015, 47016, 47399–47401, 47943–47946, 48274, 48542, 48829
43 ... 47680
71 ... 45644, 46778, 46779, 47017–47020, 47402, 47727, 48274, 48448, 48449, 48484, 48715
73 ... 47021, 48274
91 ... 47680

15 CFR
11 ... 48015
371 ... 45618, 48522
372 ... 48808
374 ... 45618
385 ... 46886
387 ... 48808
388 ... 48808
399 ... 46886, 47388, 48522, 48523, 48808
801 ... 46587
Proposed Rules:
18 ... 47597

16 CFR
6 ... 45619
13 ... 45937
305 ... 46888
1000 ... 48969
1015 ... 45631
1608 ... 48810
Proposed Rules:
13 ... 45645, 45970, 45972, 48276, 48543
453 ... 46706
455 ... 48908
500 ... 48716
1016 ... 47599
1700 ... 48450

17 CFR
1 ... 46070, 47705, 48974
30 ... 48811
200 ... 48191
211 ... 46454, 48193
229 ... 48977
240 ... 48977
250 ... 48985
270 ... 48977
274 ... 46350
Proposed Rules:
34 ... 47022
240 ... 48125

18 CFR
2 ... 47897, 47914, 48398
4 ... 48398
11 ... 48398
154 ... 48407
157 ... 47897
270 ... 48407
271 ... 46072
273 ... 48407
284 ... 47914, 48986
375 ... 48398, 48407
380 ... 47897
381 ... 48407
389 ... 45823
1306 ... 48015
1312 ... 47720
Proposed Rules:
1310 ... 47728

19 CFR
Proposed Rules:
4 ... 46602, 48194
6 ... 48833
101 ... 47908
113 ... 48833
128 ... 47729
143 ... 47729
177 ... 47601
201 ... 48994
212 ... 48994
213 ... 48994

20 CFR
355 ... 47705
404 ... 47914
Proposed Rules:
365 ... 47601
614 ... 46604

21 CFR
74 ... 45938
176 ... 46968
184 ... 47918, 48905
333 ... 47312, 48792
369 ... 47312, 48792
520 ... 48094, 48674
558 ... 48095
862 ... 48623
Proposed Rules:
182 ... 46968
352 ... 46095

22 CFR
302 ... 47714
502 ... 47991
Proposed Rules:
502 ... 47029
1506 ... 46779

23 CFR
Proposed Rules:
625 ... 47403
635 ... 45645

24 CFR
200 ... 48197
203 ... 48197
204 ... 48197
213 ... 48197
220 ... 48197
221 ... 48197
222 ... 48197
226 ... 48197
227 ... 48197
235 ... 48197
237 ... 48197
240 ... 48197
888 ... 48205
3280 ... 47552
Proposed Rules:
42 ... 47953
43 ... 47953
236 ... 48276
813 ... 46614
840 ... 48792
841 ... 48792
885 ... 46614
888 ... 48278

25 CFR
Proposed Rules:
177 ... 46781

26 CFR
1 ... 47554, 48407, 48524, 48994
18 ... 48524
31 ... 45632
35a ... 46075
54 ... 46747
602 ... 46075, 46747, 47554, 48407, 48994
Proposed Rules:
1 ... 45835, 47609, 48452, 48546, 49030
18 ... 48546
48 ... 45901
54 ... 46782
602 ... 46782, 47609

27 CFR
9 ... 46589
19 ... 47557
25 ... 47557
47 ... 48096
240 ... 47557
250 ... 46592, 47557
270 ... 47557
275 ... 47557
285 ... 47557
Proposed Rules:
9 ... 48279
250 ... 46628

28 CFR
Ch. VII ... 48097
0 ... 48997
2 ... 46596, 47921
68 ... 48997
549 ... 48068
Proposed Rules:
16 ... 48279
701 ... 47406

29 CFR
12 ... 48015
19 ... 48419
22 ... 48492
103 ... 48534
1601 ... 48998
1613 ... 48263
1910 ... 46075, 46168
1915 ... 46075
1917 ... 46075
1918 ... 46075
1926 ... 46075, 46168
1928 ... 46075
1952 ... 48103
2613 ... 47561
2617 ... 47561
2619 ... 47561, 47562, 48905
2621 ... 47563
2676 ... 47564
Proposed Rules:
103 ... 47029
1910 ... 47097

30 CFR
779 ... 47352
780 ... 47352
783 ... 47352
784 ... 45920, 47352
816 ... 47352
817 ... 45920, 47352
913 ... 48421
935 ... 46597
934 ... 49031
942 ... 47716
Proposed Rules:
904 ... 47411
934 ... 48835

935 ..... 46377, 46379, 46783, 48125
952 46095
953 46097

31 CFR

316 48422
342 48422
351 ..... 46455, 48422
Proposed Rules:
0 45648

32 CFR

40a 48431
41 46997
102 48998
209 47389
229 47720
259 48015
536 45938
706 ..... 46080, 47922
811 48675
811a 48681
1900 46456
2003 48367
Proposed Rules:
199 ..... 46098, 47029
285 48452
1636 47949
1656 47949

33 CFR

62 46351
95 47526
100 46351
110 46760
117 ..... 46081, 47391, 47923, 48263, 49010
146 47526
150 47526
160 48264
165 ..... 46351, 47924, 48811
173 47526
177 47526
Proposed Rules:
117 ..... 48717, 49031
140 48717
143 48717
146 48717
165 ..... 45973, 47413
179 47950

34 CFR

15 48015
668 ..... 45712, 46353
674 45738
675 45738
676 45738
690 45712
Proposed Rules:
251 47951
333 46720
671 49122
776 47538
778 46784
790 46785

36 CFR

296 47720
904 48015
1155 47717
Proposed Rules:
1150 48546
1202 48280
1258 48280

37 CFR

304 49010
Proposed Rules:
304 45664

38 CFR

4 46439
8a 48681
21 45633
25 48015
Proposed Rules:
21 46494

39 CFR

111 ..... 48436, 48683
224 ..... 46998, 49015
225 46998
226 46998
227 46998
228 46998
229 46998
777 ..... 48029, 48812
Proposed Rules:
111 48281

40 CFR

4 48015
52 ..... 45634, 45958, 45959, 46463, 46762, 46764, 47392, 47565, 47566, 47925, 48265, 48535, 48812, 48813
60 47826
81 ..... 46081, 46465
82 47486
85 46354
86 47858
123 45823
144 ..... 45788, 46946
180 ..... 45824, 46019, 46598, 47990, 48536–48539
260 46946
264 ..... 45788, 46946
265 45788
270 ..... 45788, 46946
271 ..... 45634, 45788, 46466
355 48072
600 47858
716 47990
Proposed Rules:
35 46712
52 ..... 46495, 46786, 47610, 48285, 48837
60 47032
62 46380
80 47032
82 47489
86 47032
160 48920
180 ..... 47733, 47734
228 ..... 48838, 48841
280 48638
281 48638
600 47032
721 46496
763 48286
792 48933

41 CFR

12-60 48630
101-6 45926
101-7 ..... 45825, 48685
101-38 48540
101-44 47393
101-47 46467
105-51 48015
105-55 46468
114-50 48015
128-18 48015
201-1 46468
201-2 46468
201-23 46468
201-24 46468
Proposed Rules:
101-41 48547

42 CFR

124 ..... 46022, 48362
401 48112
405 48112
408 48112
417 47003
431 47926
435 ..... 47926, 48438
436 48438
440 47926
441 47926
455 48814
466 47003
476 47003
Proposed Rules:
405 47990
409 48127
410 48127
416 48127
421 48127
433 48290
435 47414
436 47414
441 48127
442 47990
488 47990
489 ..... 47990, 48127

43 CFR

4 ..... 46355, 47097
7 47720
2920 49114
3420 46469
3460 46469
3560 48124
9260 49114
Proposed Rules:
3450 46499

44 CFR

25 48015
64 ..... 44685, 48818
65 46501
67 46505
Proposed Rules:
67 ..... 46787, 47611

45 CFR

15 48015
206 45687
233 45687
1100 48265
Proposed Rules:
233 47420
1803 48297

46 CFR

4 47526
5 47526
26 47526
35 47526
78 47526
97 47526
109 47526
167 47526
185 47526
196 47526
197 47526
560 45960
586 46356
Proposed Rules:
38 45665
42 47422
44 47422
45 47422
54 45665
69 46103
98 45665
151 45665
170 47422
174 47422
249 48077
503 45835
572 46501
588 46505

47 CFR

15 45961
25 45636
73 ..... 45636, 45963–45965, 46598, 46599, 47004, 47567, 47722–47724, 47935, 48268, 48438, 48439, 48689, 48690, 48819
74 47567
76 ..... 45961, 46363
80 48439
90 47569
300 49015
Proposed Rules:
1 ..... 46628, 48725, 48843, 49032
2 48844
15 47615
22 48844
43 ..... 46628, 48843
64 47951
65 48727
73 ..... 45974, 45975, 46629–46631, 47032, 47033, 47735, 47736, 48130–48133, 48728, 48844, 48845
80 45665

48 CFR

Ch. 63 48630
232 47005
519 47396
532 47005
552 47005
553 47006
801 49016
814 49016
815 49016
819 46082
833 49016
836 49016
852 49016
1801 46765
1805 46765
1807 46765
1808 46765
1809 46765
1812 46765
1813 46765
1815 46765
1827 46765
1830 46765
1831 46765
1832 46765
1836 46765
1837 46765
1852 ..... 46765, 47935

1853 46765
2401 47395
2402 47395
Proposed Rules:
31 46043
228 48549
245 47427
252 48549
508 48729
553 48729
1033 48729
1409 48301
1415 48301
1452 48301
2409 46560
2412 46560
2413 46560
2415 46560
2416 46560
2417 46560
2424 46560
2427 46560
2432 46560
2434 46560
2437 46560
2442 46560
2446 46560
2451 46560
2452 46560
2453 46560
2470 46560
5215 48550
5252 48550
5706 47033

49 CFR

1 ..... 46364, 46478, 47007, 47097
24 47994
25 48015
571 ..... 46479, 46480, 48690
1002 46481
1007 46481
1011 ..... 45636, 46773, 48440
1052 45966
1103 46481
1150 46481
1152 ..... 45636, 46773, 48440
1160 ..... 45827, 46481
1162 46481
1169 46481
1171 46481
1177 46481
1180 46481
1182 46481
Proposed Rules:
17 ..... 46510, 46511
24 45667
383 47326
571 ..... 49033, 49038
575 49038
701 46381

50 CFR

14 46019
17 ..... 46083, 46085
20 46087
23 48820
80 47571
371 49017
611 ..... 45966, 46484, 48362
642 47724
649 46088
650 46485
652 ..... 47008, 49019
661 49019
672 ..... 48691, 49021
675 ..... 45966, 46484, 48362, 49021
681 47572
Proposed Rules:
13 48948
17 ..... 45976, 46106, 46334, 46336, 48552
20 47428
21 ..... 47428, 48948
253 47990
611 48303
655 47034
658 47615
663 45668
672 48303
675 48303

LIST OF PUBLIC LAWS

Last List December 28, 1987

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 1994/Pub. L. 100-205

To amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes. (Dec. 23, 1987; 101 Stat. 1433; 1 page) Price: $1.00

H.R. 2416/Pub. L. 100-206

To establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes. (Dec. 23, 1987; 101 Stat. 1434; 4 pages) Price: $1.00

H.R. 3700/Pub. L. 100-207

To designate the Federal building located at 600 West Madison, Chicago, Illinois, as the "Harold Washington Social Security Center". (Dec. 23, 1987; 101 Stat. 1438; 1 page) Price: $1.00

H.R. 3712/Pub. L. 100-208

To designate the United States Livestock Insects Laboratory in Kerrville, Texas, as the "Knipling-Bushland Research Laboratory". (Dec. 23, 1987; 101 Stat. 1439; 1 page) Price: $1.00

H.J. Res. 376/Pub. L. 100-209

To designate the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, as the J. Strom Thurmond Dam, Reservoir, and Highway. (Dec. 23, 1987; 101 Stat. 1440; 1 page) Price: $1.00